

Calendar No. 422

104TH CONGRESS
2D Session

S. 39

[Report No. 104-276]

A BILL

To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

May 23, 1996

Reported with an amendment

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2D SESSION**S. 39****[Report No. 104–276]**

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IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. STEVENS (for himself, Mr. KERRY, Mr. MURKOWSKI, Mr. HOLLINGS, Mr. PRESSLER, Mr. LOTT, Mr. INOUE, and Mr. SIMPSON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MAY 23, 1996

Reported by Mr. PRESSLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Magnuson Fishery Conservation and Management Act to authorize appropriations, to provide for sustainable fisheries, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Sustainable Fisheries Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
 5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Amendment of the Magnuson Fishery Conservation and Management Act.

Sec. 102. Findings; purposes; policy.

Sec. 103. Definitions.

Sec. 104. Authorization of appropriations.

Sec. 105. Highly migratory species.

Sec. 106. Foreign fishing.

Sec. 107. Permits for foreign fishing.

Sec. 108. Large-scale driftnet fishing.

Sec. 109. National standards.

Sec. 110. Regional fishery management councils.

Sec. 111. Fishery management plans.

Sec. 112. Plan review and implementation.

Sec. 113. Ecosystem management.

Sec. 114. State jurisdiction.

Sec. 115. Prohibited acts.

Sec. 116. Civil penalties and permit sanctions.

Sec. 117. Enforcement.

Sec. 118. North Pacific fisheries conservation.

Sec. 119. Transition to sustainable fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.

Sec. 202. Registration and data management.

Sec. 203. Data collection.

Sec. 204. Observers.

Sec. 205. Fisheries research.

Sec. 206. Incidental harvest research.

Sec. 207. Repeal.

Sec. 208. Clerical amendments.

TITLE III—FISHERIES STOCK RECOVERY FINANCING

Sec. 301. Short title.

Sec. 302. Fisheries stock recovery refinancing.

Sec. 303. Federal financing bank relating to fishing vessels and fishery facilities.

Sec. 304. Fees for guaranteeing obligations.

Sec. 305. Sale of acquired collateral.

1 **TITLE I—CONSERVATION AND**
 2 **MANAGEMENT**

3 **SEC. 101. AMENDMENT OF MAGNUSON FISHERY CONSERVA-**
 4 **TION AND MANAGEMENT ACT.**

5 Except as otherwise expressly provided, whenever in
 6 this title an amendment or repeal is expressed in terms
 7 of an amendment to, or repeal of, a section or other provi-
 8 sion, the reference shall be considered to be made to a
 9 section or other provision of the Magnuson Fishery Con-
 10 servation and Management Act (16 U.S.C. 1801 et seq.).

11 **SEC. 102. FINDINGS; PURPOSES; POLICY.**

12 Section 2 (16 U.S.C. 1801) is amended—

13 (1) by striking subsection (a)(2) and inserting the
 14 following:

15 “(2) Certain stocks of fish have declined to the
 16 point where their survival is threatened, and other
 17 stocks of fish have been so substantially reduced in
 18 number that they could become similarly threatened
 19 as a consequence of (A) increased fishing pressure;
 20 (B) the inadequacy of fishery resource conservation
 21 and management practices and controls, or (C) di-
 22 rect and indirect habitat losses which have resulted
 23 in a diminished capacity to support existing fishing
 24 levels.”;

1 (2) by inserting “to facilitate long-term protec-
 2 tion of essential fish habitats,” in subsection (a)(6)
 3 after “conservation,”;

4 (3) by adding at the end of subsection (a) the
 5 following:

6 “(9) One of the greatest long-term threats to
 7 the viability of commercial and recreational fisheries
 8 is the continuing loss of marine, estuarine, and other
 9 aquatic habitats on a national level. Habitat consid-
 10 erations should receive increased attention for the
 11 conservation and management of fishery resources of
 12 the United States.”;

13 (4) by inserting “in a non-wasteful manner” in
 14 subsection (b)(6) after “such development”; and

15 (5) by adding at the end of subsection (b) the
 16 following:

17 “(7) to promote the protection of essential fish
 18 habitat in the review of projects conducted under
 19 Federal permits, licenses, or other authorities that
 20 affect or have the potential to affect such habitat.”.

21 **SEC. 103. DEFINITIONS.**

22 Section 3 (16 U.S.C. 1802) is amended—

23 (1) by redesignating paragraphs (2) through
 24 (32) as paragraphs (3) through (33) respectively;
 25 and inserting after paragraph (1) the following:

1 “(2) The term ‘bycatch’ means fish which are
2 harvested by a fishing vessel, but which are not sold
3 or kept for personal use, including, but not limited
4 to, economic and regulatory discards.”;

5 (2) by redesignating paragraphs (7) through
6 (33) (as redesignated) as paragraphs (9) through
7 (35), respectively, and inserting after paragraph (6)
8 (as redesignated) the following:

9 “(7) The term ‘economic discards’ means fish
10 which are the target of a fishery, but which are not
11 retained by the fishing vessel which harvested them
12 because they are of an undesirable size, sex or qual-
13 ity, or for other economic reasons.

14 “(8) The term ‘essential fish habitat’ means
15 any area essential to the life cycle of a stock of fish,
16 or to the production of maximum sustainable yield
17 of one or more fisheries managed under this Act.”;

18 (3) by redesignating paragraphs (12) through
19 (35) (as redesignated) as paragraphs (13) through
20 (36), respectively, and inserting after paragraph
21 (11) (as redesignated) the following:

22 “(12) The term ‘fishery dependent community’
23 means a community which is substantially dependent
24 on the harvest of fishery resources to meet social
25 and economic needs.”;

1 (4) by redesignating paragraphs (19) through
 2 (36) (as redesignated) as paragraphs (20) through
 3 (37), respectively, and inserting after paragraph
 4 (18) (as redesignated) the following:

5 “(19) The term ‘individual transferable quota’
 6 means a revocable Federal authorization to harvest
 7 or process a quantity of fish under a unit or quota
 8 share that represents a percentage of the total allow-
 9 able catch of a stock of fish, that may be received
 10 or held by a specific person or persons for their ex-
 11 clusive use, and that may be transferred in whole or
 12 in part by the holder to another person or persons
 13 for their exclusive use.”;

14 (5) by redesignating paragraphs (22) through
 15 (37) (as redesignated) as paragraphs (23) through
 16 (38), respectively, and inserting after paragraph
 17 (21) (as redesignated) the following:

18 “(22) The term ‘limited access system’ means
 19 any system for controlling fishing effort which in-
 20 cludes such measures as license limitations, individ-
 21 ual transferable quotas, and non-transferable
 22 quotas.”;

23 (6) by striking “Pacific Marine Fisheries Com-
 24 mission” in paragraph (23), as redesignated, and in-

1 serting “Pacific States Marine Fisheries Commis-
2 sion”;

3 (7) by striking paragraph (27), as redesignated,
4 and inserting the following:

5 “(27) The term ‘optimum’, with respect to the
6 yield from a fishery, means the amount of fish
7 which—

8 “(A) will provide the greatest overall bene-
9 fit to the Nation, with particular reference to
10 food production and recreational opportunities;
11 and taking into account the protection of ma-
12 rine ecosystems;

13 “(B) is prescribed on the basis of the max-
14 imum sustainable yield from a fishery, as modi-
15 fied by any relevant social, economic, or ecologi-
16 cal factor; and

17 “(C) provides for the rebuilding of an over-
18 fished fishery to a level consistent with produc-
19 ing the maximum sustainable yield.”;

20 (8) by redesignating paragraphs (28) through
21 (38) (as redesignated) as paragraphs (29) through
22 (39), respectively, and inserting after paragraph
23 (27) (as redesignated) the following:

24 “(28) The terms ‘overfishing’ and ‘overfished’
25 mean a level or rate of fishing mortality that jeop-

1 ardizes the capacity of a fishery to produce the max-
 2 imum sustainable yield on a continuing basis.”;

3 (9) by redesignating paragraphs (30) through
 4 (39) (as redesignated) as paragraphs (31) through
 5 (40), respectively, and inserting after paragraph
 6 (29) (as redesignated) the following:

7 “(30) The term ‘regulatory discards’ means fish
 8 caught in a fishery which fishermen are required by
 9 regulation to discard whenever caught, or are re-
 10 quired by regulation to retain but not sell.”;

11 (10) by striking “for which a fishery manage-
 12 ment plan prepared under title III or a preliminary
 13 fishery management plan prepared under section
 14 201(h) has been implemented” in paragraph (38), as
 15 redesignated, and inserting “regulated under this
 16 Act”; and

17 (11) by redesignating paragraph (40), as redес-
 18 ignated, as (41), and inserting after paragraph (39)
 19 the following:

20 “(40) The term ‘vessel subject to the jurisdic-
 21 tion of the United States’ has the same meaning as
 22 in section 3(c) of the Maritime Drug Law Enforce-
 23 ment Act (46 U.S.C. App. 1903(c)).”.

1 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

2 The Act is amended by inserting after section 3 the
3 following:

4 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

5 “There are authorized to be appropriated to the Sec-
6 retary for the purposes of carrying out the provisions of
7 this Act, not to exceed the following sums (of which 15
8 percent in each fiscal year shall be used for enforcement
9 activities):

10 “(1) \$102,000,000 for fiscal year 1993;

11 “(2) \$106,000,000 for fiscal year 1994;

12 “(3) \$143,000,000 for fiscal year 1995;

13 “(4) \$147,000,000 for fiscal year 1996;

14 “(5) \$151,000,000 for fiscal year 1997;

15 “(6) \$155,000,000 for fiscal year 1998; and

16 “(7) \$159,000,000 for fiscal year 1999.”.

17 **SEC. 105. HIGHLY MIGRATORY SPECIES.**

18 Section 102 (16 U.S.C. 1812) is amended by striking
19 “promoting the objective of optimum utilization” and in-
20 serting “shall promote the achievement of optimum yield”.

21 **SEC. 106. FOREIGN FISHING.**

22 Section 201 (16 U.S.C. 1821) is amended—

23 (1) by inserting a comma and “or is approved
24 under section 204(b)(6)(A)(ii)” before the semicolon
25 in subsection (a)(1);

1 (2) by striking “(g)” in subsection (a)(2) and
2 inserting “(f)”;

3 (3) by striking “(i)” in subsection (c)(2)(D)
4 and inserting “(h)”;

5 (4) by striking “, including any regulations pro-
6 mulgated to implement any applicable fishery man-
7 agement plan or any preliminary fishery manage-
8 ment plan” in subsection (c); and

9 (5) by striking subsection (f) and redesignating
10 subsections (g), (h), (i), and (j) as (f), (g), (h), and
11 (i), respectively.

12 **SEC. 107. PERMITS FOR FOREIGN FISHING.**

13 (a) So much of section 204(b) (16 U.S.C. 1824(b))
14 as precedes paragraph (2) is amended to read as follows:

15 “(b) APPLICATIONS AND PERMITS.—

16 “(1) ELIGIBILITY.—

17 “(A) Each foreign nation with which the
18 United States has entered into a governing
19 international fishery agreement shall submit an
20 application to the Secretary of State each year
21 for a permit for each of its fishing vessels that
22 wishes to engage in fishing described in sub-
23 section (a).

24 “(B) An owner of a vessel, other than a
25 vessel of the United States, who wishes to en-

1 gage in the transshipment at sea of fish prod-
 2 ucts in the exclusive economic zone or within
 3 the boundary of any State, may submit an ap-
 4 plication to the Secretary each year for a per-
 5 mit for a vessel belonging to that owner, wheth-
 6 er or not such vessel is subject to an inter-
 7 national fishery agreement described in section
 8 201(b) or (c).

9 “(C) No permit issued under this section
 10 may be valid for longer than a year. Section
 11 558(e) of title 5, United States Code, does not
 12 apply to the renewal of any such permit.”.

13 (b) Section 204(b)(4) (16 U.S.C. 1824(b)(4)) is
 14 amended—

15 (1) by inserting “(A)” after the caption;

16 (2) by inserting “submitted under paragraph
 17 (1)(A)” after “any application”;

18 (3) by redesignating subparagraphs (A), (B),
 19 and (C) as clauses (i), (ii), and (iii), respectively;
 20 and

21 (4) by inserting at the end thereof the follow-
 22 ing:

23 “(B) Upon receipt of any application sub-
 24 mitted under paragraph (1)(B) which complies
 25 with the requirements of paragraph (3), the

Secretary shall promptly transmit copies of the application or summary as indicated under subparagraphs (A)(ii) and (iii); and shall also promptly transmit such application or summary to States bordering the exclusive economic zone where such transshipment is proposed to occur.”.

(c) Section 204(b)(5) (16 U.S.C. 1824(b)(5)) is amended by striking “under paragraph (4)(C)” and inserting “submitted under paragraph (1)”.

(d) Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is amended—

(1) by striking “transmitted under paragraph (4)(A)” in subparagraph (A) and inserting “submitted under paragraph (1)(A)”;

(2) by inserting “(i)” before “After” in subparagraph (A); and

(3) by inserting before subparagraph (B) the following:

“(ii) In the case of any application submitted under paragraph (1)(B), the Secretary, after taking into consideration any comments submitted by the Council under paragraph (5) or any affected State, may approve the application upon deter-

1 mining that the activity described in the
 2 application will be in the interest of the
 3 United States and will meet the applicable
 4 requirements of this Act, and that the
 5 owners or operators have agreed to comply
 6 with requirements set forth in section
 7 201(c)(2) and have established any bonds
 8 or financial assurances that may be re-
 9 quired by the Secretary; or the Secretary
 10 may disapprove all or any portion of the
 11 application.”.

12 (e) Section 204(b)(8) (16 U.S.C. 1824(b)(8)) is
 13 amended—

14 (1) by inserting a comma and “or the agent for
 15 the foreign vessel owner for any application submit-
 16 ted under paragraph (1)(B)” before the semicolon at
 17 the end of subparagraph (A); and

18 (2) by inserting “and any affected State” be-
 19 fore the period at the end of subparagraph (C).

20 (f) Section 204(b)(9) (16 U.S.C. 1824(b)(9)) is
 21 amended—

22 (1) by inserting “paragraph (1)(A) of” after
 23 “by a foreign nation under”;

24 (2) by inserting “(A)” after the heading in
 25 paragraph (9); and

1 ~~(3)~~ by adding at the end thereof the following:

2 “(B) If the Secretary does not approve any
3 application submitted by a foreign vessel owner
4 under paragraph (1)(B) of this subsection, the
5 Secretary shall promptly inform the vessel
6 owner of the disapproval and the reasons there-
7 fore. The owner, after taking into consideration
8 the reasons for disapproval, may submit a re-
9 vised application under this subsection.”.

10 ~~(g)~~ Section 204(b)(11) ~~(16 U.S.C. 1824(b)(11))~~ is
11 amended—

12 ~~(1)~~ by inserting “(A)” after the paragraph
13 heading,

14 ~~(2)~~ by inserting “submitting an application
15 under paragraph (1)(A)” after “If a foreign nation”;
16 and

17 ~~(3)~~ adding at the end thereof the following:

18 “(B) If the vessel owner submitting an ap-
19 plication under paragraph (1)(B) notifies the
20 Secretary of acceptance of the conditions and
21 restrictions established by the Secretary under
22 paragraph (7), and upon payment of the appli-
23 cable fees established pursuant to paragraph
24 ~~(10)~~ and confirmation of any bonds or financial
25 assurances that may be required for such trans-

1 shipment of fish, the Secretary shall thereupon
 2 issue a permit for the vessel.”.

3 (h) Section 204 (16 U.S.C. 1824) is amended by add-
 4 ing at the end thereof the following:

5 “(d) PROHIBITION ON PERMIT ISSUANCE.—Notwith-
 6 standing any other provision of this Act, the Secretary is
 7 prohibited from issuing, before December 1, 1999, any
 8 permit to authorize the catching, taking, or harvesting of
 9 Atlantic mackerel or Atlantic herring by foreign fishing
 10 vessels within the exclusive economic zone. This subsection
 11 shall not apply to permits to authorize foreign fish proc-
 12 essing vessels to process Atlantic mackerel or Atlantic her-
 13 ring harvested by fishing vessels of the United States.”.

14 **SEC. 108. LARGE-SCALE DRIFTNET FISHING.**

15 (a) Section 206(e) (16 U.S.C. 1826(e)) is amended
 16 by striking paragraphs (3) and (4), and redesignating
 17 paragraphs (5) and (6) as (3) and (4), respectively.

18 (b) Section 206(f) (16 U.S.C. 1826(f)) is amended
 19 by striking “(6)” and inserting “(4)”.

20 **SEC. 109. NATIONAL STANDARDS.**

21 (a) Paragraph (1) of section 301(a) (16 U.S.C.
 22 1851(a)) is amended to read as follows:

23 “(1) Conservation and management measures
 24 shall prevent overfishing and rebuild overfished fish-

1 ery resources while achieving, on a continuing basis,
2 the optimum yield from each fishery.”.

3 (b) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is
4 amended by striking “promote” and inserting “consider”.

5 (c) Section 301(a) (16 U.S.C. 1851(a)) is amended
6 by adding at the end thereof the following:

7 “(8) Conservation and management measures
8 shall take into account the importance of the harvest
9 of fishery resources to fishery dependent commu-
10 nities.”.

11 **SEC. 110. REGIONAL FISHERY MANAGEMENT COUNCILS.**

12 (a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

13 (1) by inserting “(1)” after the subsection
14 heading;

15 (2) by redesignating paragraphs (1) through
16 (7) as subparagraphs (A) through (H);

17 (3) by striking “section 304(f)(3)” wherever it
18 appears and inserting in lieu thereof “paragraph
19 (3)”;

20 (4) by striking paragraph (1)(F), as redesign-
21 ated, and inserting the following:

22 “(F) **PACIFIC COUNCIL.**—The Pacific Fish-
23 ery Management Council shall consist of the
24 States of California, Oregon, Washington, and
25 Idaho and shall have authority over the fish-

1 eries in the Pacific Ocean seaward of such
 2 States. The Pacific Council shall have 13 voting
 3 members, including 7 appointed by the Sec-
 4 retary in accordance with subsection (b)(2) (at
 5 least one of whom shall be appointed from each
 6 such State); and including one appointed from
 7 an Indian tribe with Federally recognized fish-
 8 ing rights from California, Oregon, Washington,
 9 or Idaho in accordance with subsection (b)(5).”;
 10 (5) by indenting the sentence at the end thereof
 11 and inserting “(2)” in front of “Each Council”, and
 12 by inserting “The Secretary shall establish the
 13 boundaries between the geographical areas of au-
 14 thority of adjacent Councils.” after “authority.”;
 15 and
 16 (6) by adding at the end the following:
 17 “(3) The Secretary shall have authority over
 18 any highly migratory species fishery that is within
 19 the geographical area of authority of more than one
 20 of the following Councils: New England Council,
 21 Mid-Atlantic Council, South Atlantic Council, Gulf
 22 Council, and Caribbean Council.”.
 23 (b) Section 302(b) (16 U.S.C. 1852(b)) is amended—
 24 (1) by striking subparagraph (C) of subsection
 25 (b)(1) and inserting the following:

1 “(C) The members required to be ap-
 2 pointed by the Secretary in accordance with
 3 subsections (b)(2) and (5).”;

4 (2) by redesignating paragraph (5) as para-
 5 graph (6); and inserting after paragraph (4) the
 6 following:

7 “(5)(A) The Secretary shall appoint to the Pa-
 8 cific Fishery Management Council one representative
 9 of an Indian tribe with Federally recognized fishing
 10 rights from California, Oregon, Washington, or
 11 Idaho, from a list of not less than 3 individuals sub-
 12 mitted by the tribal governments. The representative
 13 shall serve for a term of 3 years and may not serve
 14 more than 3 consecutive terms. The Secretary, in
 15 consultation with the Secretary of the Interior and
 16 tribal governments, shall establish by regulation the
 17 procedure for submitting lists under this subpara-
 18 graph.

19 “(B) Representation shall be rotated among the
 20 tribes taking into consideration—

21 “(i) the qualifications of the individuals on
 22 the list referred to in subparagraph (A);

23 “(ii) the various treaty rights of the Indian
 24 tribes involved and judicial cases that set forth
 25 how those rights are to be exercised; and

1 ~~“(iii) the geographic area in which the~~
 2 ~~tribe of the representative is located.~~

3 ~~“(C) A vacancy occurring prior to the expira-~~
 4 ~~tion of any term shall be filled in the same manner~~
 5 ~~set out in subparagraphs (A) and (B), except that~~
 6 ~~the Secretary may use the list from which the~~
 7 ~~vacating representative was chosen.”; and,~~

8 ~~(3) by striking “subsection (b)(2)” in para-~~
 9 ~~graph (6), as redesignated, and inserting “sub-~~
 10 ~~sections (b)(2) and (5)”.~~

11 ~~(e) Section 302(e) (16 U.S.C. 1852(e)) is amended~~
 12 ~~by adding at the end the following:~~

13 ~~“(5) At the request of any voting member of a~~
 14 ~~Council, the Council shall hold a roll call vote on any~~
 15 ~~matter before the Council. The official minutes and~~
 16 ~~other appropriate records of any Council meeting~~
 17 ~~shall identify all roll call votes held, the name of~~
 18 ~~each voting member present during each roll call~~
 19 ~~vote, and how each member voted on each roll call~~
 20 ~~vote.”.~~

21 ~~(d) Section 302(g) (16 U.S.C. 1852(g)) is amended~~
 22 ~~by redesignating paragraph (4) as (5), and by inserting~~
 23 ~~after paragraph (3) the following:~~

24 ~~“(4) The Secretary shall establish advisory pan-~~
 25 ~~els to assist in—~~

1 “(A) the collection and evaluation of infor-
 2 mation relevant to the development of or
 3 amendment to any fishery management plan
 4 under section 303(c)(2); and

5 “(B) carrying out the purposes of section
 6 303(f).”.

7 (e) Section 302(h) (16 U.S.C. 1852(h)) is amended—
 8 (1) by striking “section 304(f)(3)” in para-
 9 graphs (1) and (5) and inserting “subsection
 10 (a)(3)”; and

11 (2) by striking “204(b)(4)(C)” in paragraph (2)
 12 and inserting “204(b)(4)(A)(iii).”.

13 (f) Section 302(i) (16 U.S.C. 1852(i)) is amended to
 14 read as follows:

15 “(i) NEGOTIATED CONSERVATION AND MANAGE-
 16 MENT MEASURES.—

17 “(1) A Council may, in consultation with the
 18 Secretary, establish a negotiation panel to assist in
 19 the development of specific conservation and man-
 20 agement measures for a fishery under authority of
 21 such Council. In making the decision to establish
 22 such panel, the Council shall consider whether—

23 “(A) there are a finite number of identifi-
 24 able interests that will be significantly affected
 25 by the development of such measures;

1 “(B) there is a reasonable likelihood that
2 a negotiation panel can be convened with a bal-
3 anced representation of persons who—

4 “(i) can adequately represent the in-
5 terests identified under subparagraph (A);
6 and

7 “(ii) are willing to act in good faith to
8 reach a consensus on the development of
9 such measures;

10 “(C) there is reasonable likelihood that a
11 negotiation panel will contribute to the develop-
12 ment of such measures within a fixed period of
13 time; and

14 “(D) the process under this subsection will
15 not unreasonably delay the development of any
16 conservation and management measure or its
17 submission to the Secretary.

18 “(2) If the Council decides to establish a nego-
19 tiation panel it shall notify all identifiable interests
20 of its intention to convene such panel at least 30 cal-
21 endar days prior to the appointment of members.
22 Such notification shall be published in accordance
23 with subsection (j)(2)(C) of this section and shall
24 include—

1 “(A) a description of the subject and scope
2 of the measures to be developed and the issues
3 to be considered;

4 “(B) a list of interests likely to be signifi-
5 cantly affected by the measures to be developed;

6 “(C) a list of the persons proposed to rep-
7 resent such interests, the person or persons
8 proposed to represent the Council, and the per-
9 son or persons proposed to be nominated as
10 facilitator;

11 “(D) an explanation of how a person may
12 apply or nominate another person for member-
13 ship on the negotiation panel; and

14 “(E) a proposed agenda and schedule for
15 completing the work of the negotiation panel.

16 “(3) No more than 45 calendar days after pro-
17 viding this notification the Council shall make ap-
18 pointments to the negotiation panel in such a man-
19 ner as to achieve balanced representation of all sig-
20 nificant interests to the conservation and manage-
21 ment measures. Such interests shall include, where
22 appropriate, representatives from the fishing indus-
23 try, consumer groups, the scientific community, trib-
24 al organizations, conservation organizations and

1 other public interest organizations, and Federal and
2 State fishery managers.

3 “(4) Each negotiation panel established under
4 this section shall attempt to reach a consensus con-
5 cerning specific conservation and management meas-
6 ures and any other issue such panel determines is
7 relevant to such measures. The Council, to the maxi-
8 mum extent possible consistent with its legal obliga-
9 tions and the best scientific information available,
10 will use the consensus of the negotiation panel, with
11 respect to such measures, as the basis for the devel-
12 opment of the conservation and management meas-
13 ures to be adopted by the Council for submission by
14 the Council to the Secretary in accordance with this
15 Act.

16 “(5) The person or persons representing the
17 Council on a negotiation panel shall participate in
18 the deliberations and activities of such panel with
19 the same rights and responsibilities as other panel
20 members.

21 “(6) Any facilitator nominated by the Council
22 to a negotiation panel must be approved by the
23 panel by consensus. If the panel does not approve a
24 facilitator nominated by the Council the panel shall
25 select by consensus another person to serve as

1 facilitator. No person appointed by the Council to
2 the negotiation panel to represent any interest on
3 the Council may serve as facilitator or otherwise
4 chair such panel.

5 “(7) A facilitator approved or selected by a ne-
6 gotiation panel shall—

7 “(A) chair the meetings of such panel in
8 an impartial manner;

9 “(B) impartially assist the panel members
10 in conducting discussions and negotiations; and

11 “(C) manage the keeping of any minutes
12 or records, (except that any personal notes and
13 materials of the facilitator or the panel mem-
14 bers shall not be subject to disclosure, except
15 upon order of a court).

16 “(8) A negotiation panel may adopt any addi-
17 tional procedures for the operation of the negotiation
18 panel not in conflict with those specified in this sec-
19 tion.

20 “(9) At the conclusion of the negotiation proe-
21 cess, if the negotiation panel reaches a consensus on
22 proposed conservation and management measures,
23 such panel shall transmit to the Council, and
24 present to the Council at the next scheduled meeting
25 of the Council, a report containing the proposed con-

1 servation and management measures. If the negotia-
2 tion panel does not reach consensus on proposed
3 conservation and management measures, such panel
4 shall transmit to the Council, and present to the
5 Council at the next scheduled meeting of the Coun-
6 cil, a report specifying its recommendations and de-
7 scribing the areas in which the negotiation panel
8 reached consensus and the areas in which consensus
9 was not achieved. The negotiation panel may include
10 in a report any other information or materials that
11 such panel considers appropriate. Any panel member
12 may include, as an addendum to the report, addi-
13 tional information or materials.

14 “(10) A negotiation panel shall terminate upon
15 transmittal and presentation to the Council of the
16 report required under paragraph (9) unless the
17 Council in consultation with the panel specifies an
18 alternative termination date.

19 “(11) For the purposes of this subsection—

20 “(A) The term ‘negotiation panel’ means
21 an advisory panel established by a Council
22 under section (g)(2) to assist in the develop-
23 ment of specific conservation and management
24 measures through the process established under
25 this subsection.

1 “(B) The term ‘consensus’ means general
2 but not unanimous concurrence among the in-
3 terests represented unless such panel—

4 “(i) agrees by consensus to define
5 such term to mean a unanimous concur-
6 rence; or

7 “(ii) agrees by consensus upon an-
8 other specified definition.

9 “(C) The term ‘facilitator’ means a person
10 experienced or trained in group mediation and
11 negotiation who impartially aids in the discus-
12 sions and negotiations among the members of a
13 negotiation panel.

14 “(D) The term ‘interest’ means, with re-
15 spect to this subsection, multiple persons or
16 parties who have a similar point of view or
17 which are likely to be affected in a similar man-
18 ner.”.

19 (g) Section 302(j) (16 U.S.C. 1852(j)) is amended—

20 (1) by striking “of the Councils” in paragraph
21 (1) and inserting “established under subsection (g)”;
22 and

23 (2) by striking “of a Council:” in paragraph (2)
24 and inserting “established under subsection (g):”.

1 (3) by adding the following at the end of para-
 2 graph (2)(C): “Interested persons may propose to
 3 modify the published agenda of a meeting by sub-
 4 mitting to a Council, panel or committee within 14
 5 calendar days of the published date of the meeting
 6 a notice containing a written description of the pro-
 7 posed modification signed by not less than two
 8 Council members.”;

9 (4) by adding the following at the end of para-
 10 graph (2)(D): “All written data submitted to a
 11 Council by an interested person shall include a state-
 12 ment of the source and date of such information.
 13 Any oral or written statement shall include a brief
 14 description of the qualifications and interests of the
 15 person in the subject of the oral or written state-
 16 ment.”;

17 (5) by amending paragraph (2)(E) to read as
 18 follows:

19 “(E) Detailed minutes of each meeting of
 20 the Council shall be kept and shall contain a
 21 record of the persons present, a complete and
 22 accurate description of matters discussed and
 23 conclusions reached, and copies of all state-
 24 ments filed, issued, or approved by the Council.
 25 The Chairman shall certify the accuracy of the

1 minutes of each meeting and submit a copy
 2 thereof to the Secretary. The minutes shall be
 3 made available to any court of competent juris-
 4 diction.”; and

5 (6) by striking “303(d)” in paragraph (2)(F)
 6 and inserting “402(b)”.

7 (g) Section 302(k) (16 U.S.C. 1852(k)) is amended—

8 (1) by inserting “and recusal” in the subsection
 9 heading;

10 (2) by striking paragraph (1) and inserting the
 11 following:

12 “(1) For the purposes of this subsection—

13 “(A) the term ‘affected individual’ means
 14 an individual who—

15 “(i) is nominated by the Governor of
 16 a State for appointment as a voting mem-
 17 ber of a Council in accordance with sub-
 18 section (b)(2); or

19 “(ii) is a voting member of a Council
 20 appointed under subsection (b)(2); and

21 “(B) the term ‘designated official’ means a
 22 person with expertise in Federal conflict-of-in-
 23 terest requirements who is designated by the
 24 Secretary, with the concurrence of a majority of
 25 the voting members of the Council, to attend

1 Council meetings and make determinations
2 under paragraph (7)(B).”;

3 ~~(3)~~ by striking “(1)(A)” in paragraph ~~(3)~~(A)
4 and inserting “(1)(A)(i)”;

5 ~~(4)~~ by striking “(1)(B) or (C)” in paragraph
6 ~~(3)~~(B) and inserting “(1)(A)(ii)”;

7 ~~(5)~~ by striking “(1)(B) or (C)” in paragraph
8 ~~(4)~~ and inserting “(1)(A)(ii)”;

9 ~~(6)~~(A) by striking “and” at the end of para-
10 graph ~~(5)~~(A);

11 ~~(B)~~ by striking the period at the end of para-
12 graph ~~(5)~~(B) and inserting a semicolon and the
13 word “and”; and

14 ~~(C)~~ by adding at the end of paragraph ~~(5)~~ the
15 following:

16 “(C) be kept on file by the Secretary for
17 use in reviewing determinations under para-
18 graph ~~(7)~~(B) and made available for public in-
19 spection at reasonable hours.”;

20 ~~(7)~~ by striking “(1)(B) or (C)” in paragraph
21 ~~(6)~~ and inserting “(1)(A)(ii)”;

22 ~~(8)~~ by redesignating paragraph ~~(7)~~ as ~~(8)~~ and
23 inserting after paragraph ~~(6)~~ the following:

24 “~~(7)~~(A) An affected individual required to dis-
25 close a financial interest under paragraph ~~(2)~~ shall

1 not vote on a Council decision which would have a
2 significant and predictable effect on such financial
3 interest. A Council decision shall be considered to
4 have a significant and predictable effect on a finan-
5 cial interest if there is a close causal link between
6 the Council decision and an expected and dispropor-
7 tionate benefit, shared only by a minority of persons
8 within the same industry sector or gear group, to
9 the financial interest. An affected individual who
10 may not vote may participate in Council delibera-
11 tions relating to the decision after notifying the
12 Council of the voting recusal and identifying the fi-
13 nancial interest that would be affected.

14 “(B) At the request of an affected individual, or
15 at the initiative of the appropriate designated offi-
16 cial, the designated official shall make a determina-
17 tion for the record whether a Council decision would
18 have a significant and predictable effect on a finan-
19 cial interest.

20 “(C) Any Council member may submit a writ-
21 ten request to the Secretary to review any deter-
22 mination by the designated official under subpara-
23 graph (B) within 10 days of such determination.
24 Such review shall be completed within 30 days of re-
25 ceipt of the request.

1 “(D) Any affected individual who does not par-
 2 ticipate in a Council decision in accordance with this
 3 subsection shall state for the record how he or she
 4 would have voted on such decision if he or she had
 5 voted.

6 “(E) If the Council makes a decision before the
 7 Secretary has reviewed a determination under sub-
 8 paragraph (C), the eventual ruling may not be treat-
 9 ed as cause for the invalidation or reconsideration by
 10 the Secretary of such decision.

11 “(F) No later than December 1, 1995, the Sec-
 12 retary, in consultation with the Councils, shall issue
 13 guidelines with respect to voting recusals under sub-
 14 paragraph (A) and the making of determinations
 15 under subparagraph (B).”; and

16 (9) by striking “(1)(B) or (C)” in paragraph
 17 (8), as redesignated, and inserting “(1)(A)(ii)”.

18 **SEC. 111. FISHERY MANAGEMENT PLANS.**

19 (a) Section 303(a) (16 U.S.C. 1853(a)) is amended—

20 (1) by striking paragraph (6) and inserting the
 21 following:

22 “(6) consider and provide for, after consultation
 23 with the Coast Guard and persons participating in
 24 the fishery and to the extent practicable without ad-
 25 versely affecting conservation efforts in other fish-

eries or discriminating among participants in the affected fishery—

“(A) safety of life and property at sea;

“(B) temporary adjustments regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; and

“(C) effective enforcement measures (including an estimate of the resources necessary for such measures).”;

(2) by striking paragraph (7) and inserting the following:

“(7) facilitate the protection of essential fish habitat by—

“(A) summarizing available information on the significance of such habitat to the fishery and the effects of changes to such habitat on the fishery; and

“(B) identifying Federal actions that should be considered to promote the long-term protection of essential fish habitats.”;

(3) by striking “and” at the end of paragraph (8);

1 (4) by striking the period at the end of para-
2 graph (9) and inserting a semicolon; and

3 (5) by adding at the end the following:

4 “(10) specify objective and measurable criteria
5 for classifying when the fishery to which the plan
6 applies would be or is overfished; with an analysis of
7 how the criteria were determined and the relation-
8 ship of the criteria to the reproductive potential of
9 stocks of fish in that fishery;

10 “(11) assess the level of bycatch occurring in
11 the fishery; and to the extent practicable, assess and
12 specify the effect of the fishery on stocks of fish to
13 which the plan does not apply, but which are associ-
14 ated with the ecosystem of the fishery; and

15 “(12) to the extent practicable, minimize mor-
16 tality caused by economic and regulatory discards in
17 the fishery.”.

18 (b) Section 303(b) (16 U.S.C. 1853(b)) is amended—

19 (1) by striking paragraph (6) and inserting the
20 following:

21 “(6) establish a limited access system for the
22 fishery in order to achieve optimum yield if—

23 “(A) in developing such system, the Coun-
24 cil and the Secretary take into account present
25 participation in the fishery, historical fishing

practices in and dependence on the fishery; the economics of the fishery; the capability of fishing vessels used in the fishery to engage in other fisheries; the cultural and social framework relevant to the fishery and fishery dependent communities; and any other relevant considerations; and

“(B) in the case of any system that provides for individual transferable quotas, such system also complies with the guidelines and fee requirements established under section 303(f);”;

and

(2) by striking “and” at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting a semicolon and “and”;

and

(4) by adding at the end the following:

“(11) include, consistent with the other provisions of this Act, conservation and management measures that provide a harvest preference or other incentives for fishing vessels within each gear group that employ fishing practices resulting in lower levels of bycatch.”.

1 ~~(e) Section 303 (16 U.S.C. 1853) is amended by~~
 2 ~~striking subsection (e) and all thereafter and inserting the~~
 3 ~~following:~~

4 ~~“(e) REGULATIONS TO IMPLEMENT A FISHERY MAN-~~
 5 ~~AGEMENT PLAN.—Proposed regulations which the Council~~
 6 ~~deems necessary or appropriate for the purposes of imple-~~
 7 ~~menting a fishery management plan or amendment to a~~
 8 ~~plan may be submitted to the Secretary for action under~~
 9 ~~section 304—~~

10 ~~“(1) simultaneously with submission of the plan~~
 11 ~~or amendment to the Secretary for action under sec-~~
 12 ~~tion 304; or~~

13 ~~“(2) at any time after the plan or amendment~~
 14 ~~is approved.~~

15 ~~“(d) FISHERIES UNDER AUTHORITY OF MORE THAN~~
 16 ~~ONE COUNCIL.—~~

17 ~~“(1) Except as provided in section 302(a)(3), if~~
 18 ~~any fishery extends beyond the geographical area of~~
 19 ~~authority of any one Council, the Secretary may—~~

20 ~~“(A) designate which Council shall prepare~~
 21 ~~the fishery management plan for such fishery~~
 22 ~~and any amendment to such plan, as well as~~
 23 ~~any proposed regulations for such fishery; or~~

1 ~~“(B) require that the plan, amendment,~~
 2 ~~and proposed regulations be prepared jointly by~~
 3 ~~the Councils concerned.~~

4 ~~“(2) No jointly prepared fishery management~~
 5 ~~plan, amendment, or proposed regulations may be~~
 6 ~~submitted to the Secretary unless approved by a ma-~~
 7 ~~jority of the voting members, present and voting, of~~
 8 ~~each Council concerned.~~

9 ~~“(e) PREPARATION BY THE SECRETARY.—~~

10 ~~“(1) The Secretary shall prepare a fishery man-~~
 11 ~~agement plan with respect to any fishery (other than~~
 12 ~~a fishery to which section 302(a)(3) applies); or any~~
 13 ~~amendment to any such plan, in accordance with the~~
 14 ~~national standards, the other provisions of this Act,~~
 15 ~~and any other applicable law, if—~~

16 ~~“(A) the appropriate Council fails to de-~~
 17 ~~velop and submit to the Secretary, after a rea-~~
 18 ~~sonable period of time, a fishery management~~
 19 ~~plan for such fishery, or any necessary amend-~~
 20 ~~ment to such plan, if such fishery requires con-~~
 21 ~~servation and management and the Secretary~~
 22 ~~provides written notice to the Council of the~~
 23 ~~need for such conservation and management;~~

24 ~~“(B) the Secretary disapproves or partially~~
 25 ~~disapproves any such plan or amendment, or~~

disapproves a revised plan or amendment, and the Council involved fails, after a reasonable period of time, to take final action on a revised or further revised plan or amendment, as the case may be; or

“(C) the Secretary determines that the appropriate Council has failed to take sufficient action on a fishery management plan, a plan amendment or proposed regulations to rebuild an overfished fishery pursuant to section 305(b) within 1 year after determining that such fishery is overfished.

“(2) The Secretary shall prepare a fishery management plan with respect to any highly migratory species fishery to which section 302(a)(3) applies that requires conservation and management, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law. In preparing and implementing any such plan or amendment, the Secretary shall—

“(A) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in

1 the preparation and amendment of the plan and
2 any regulations implementing the plan;

3 “(B) consult with and consider the com-
4 ments and views of affected Councils, as well as
5 commissioners and advisory groups appointed
6 under Acts implementing relevant international
7 fishery agreements pertaining to highly migra-
8 tory species;

9 “(C) establish an advisory panel under sec-
10 tion 302(g) for each fishery management plan
11 to be prepared under this paragraph, which
12 shall consist of a balanced number of represent-
13 atives (but not less than 7) who are knowledge-
14 able and experienced with respect to the fishery
15 concerned selected from among members of ad-
16 visory groups appointed under Acts implement-
17 ing relevant international fishery agreements
18 pertaining to highly migratory species and other
19 interested parties;

20 “(D) evaluate the likely effects, if any, of
21 conservation and management measures on par-
22 ticipants in the affected fisheries and minimize,
23 to the extent practicable, any disadvantage to
24 United States fishermen in relation to foreign
25 competitors;

1 “(E) with respect to a highly migratory
2 species for which the United States is author-
3 ized to harvest an allocation or quota or fishing
4 mortality level under a relevant international
5 fishery agreement, provide fishing vessels of the
6 United States with a reasonable opportunity to
7 harvest such allocation, quota, or fishing mor-
8 tality level;

9 “(F) review, on a continuing basis (and
10 promptly whenever a recommendation pertain-
11 ing to fishing for highly migratory species has
12 been made under a relevant international fish-
13 ery agreement), and revise as appropriate, the
14 conservation and management measures in-
15 cluded in the plan;

16 “(G) diligently pursue, through inter-
17 national entities (such as the International
18 Commission for the Conservation of Atlantic
19 Tunas), comparable international fishery man-
20 agement measures with respect to fishing for
21 highly migratory species; and

22 “(H) ensure that conservation and man-
23 agement measures adopted under this para-
24 graph—

1 “(i) promote international conserva-
2 tion of the affected fishery;

3 “(ii) take into consideration tradi-
4 tional fishing patterns of fishing vessels of
5 the United States and the operating re-
6 quirements of the fisheries; and

7 “(iii) are fair and equitable in allocat-
8 ing fishing privileges among United States
9 fishermen and not have economic allocation
10 as the sole purpose.

11 “(3) In preparing any plan or amendment
12 under this subsection, the Secretary shall consult
13 with the Secretary of State with respect to foreign
14 fishing and with the Secretary of the department in
15 which the Coast Guard is operating with respect to
16 enforcement at sea.

17 “(4) The Secretary may not include in any fish-
18 ery management plan, or any amendment to any
19 such plan, prepared by the Secretary under para-
20 graph (1), a provision establishing a limited access
21 system, unless such system is first approved by a
22 majority of the voting members of each appropriate
23 Council.

24 “(f) INDIVIDUAL TRANSFERABLE QUOTAS.—

1 “(1) The Secretary may not approve a fishery
 2 management plan that includes individual transfer-
 3 able quotas until the Secretary has promulgated
 4 guidelines under paragraph (2). Thereafter, the Sec-
 5 retary may approve a fishery management plan or
 6 amendment that includes individual transferable
 7 quotas only if the plan or amendment is consistent
 8 with the guidelines promulgated under paragraph
 9 (2).

10 “(2) The Secretary shall promulgate, after con-
 11 sultation with the Councils and public notice and
 12 comment, mandatory guidelines for the establish-
 13 ment of any individual transferable quota system.
 14 The guidelines shall—

15 “(A) ensure that any individual transfer-
 16 able quota system—

17 “(i) is consistent with the require-
 18 ments for limited access systems under
 19 section 303(b)(6);

20 “(ii) promotes conservation;

21 “(iii) requires collection of fees from
 22 holders of individual transferable quotas
 23 under section 304(f)(2);

24 “(iv) provides for the fair and equi-
 25 table allocation of fishing privileges; and

1 minimizes negative social and economic im-
 2 pacts on fishery dependent communities;

3 “(v) establishes a national lien reg-
 4 istry system for the identification, perfec-
 5 tion, determination of lien priorities, and
 6 nonjudicial foreclosure of encumbrances or
 7 individual transferable quotas; and

8 “(vi) facilitates a reduction in exces-
 9 sive fishing capacity in the fishery;

10 “(B) address the characteristics of fish-
 11 eries that are relevant to the design of suitable
 12 individual transferable quota systems, the na-
 13 ture and extent of the privilege established
 14 under an individual transferable quota system,
 15 factors in making initial allocations and deter-
 16 mining eligibility for ownership of individual
 17 transferable quotas, limitations on the consoli-
 18 dation of individual transferable quotas, and
 19 methods of providing for new entrants, includ-
 20 ing, in fisheries where appropriate, mechanisms
 21 to provide a portion of the annual harvest for
 22 entry-level fishermen or small vessel owners who
 23 do not hold individual transferable quotas;

24 “(C) provide for effective monitoring and
 25 enforcement of individual transferable quota

1 systems, including providing for the inspection
2 of fish harvested under such systems before the
3 fish is transported beyond the geographic area
4 under a Council's jurisdiction or the jurisdiction
5 of the United States;

6 “(D) provide for appropriate penalties for
7 violations of individual transferable quota sys-
8 tems, including the revocation of individual
9 transferable quotas for such violations; and

10 “(E) include recommendations for poten-
11 tial management options related to individual
12 transferable quotas, including the authorization
13 of individual units or quotas that may not be
14 transferred by the holder, and the use of leases
15 or auctions by the Federal government in the
16 establishment or allocation of individual trans-
17 ferable or nontransferable units or quotas.

18 “(3) Any fishery management plan which in-
19 cludes individual transferable quotas that the Sec-
20 retary approved on or before the date of enactment
21 of the Sustainable Fisheries Act shall be amended
22 within 3 years after that date to be consistent with
23 this subsection and any other applicable provisions
24 of this Act.

1 “(4) No later than 60 days after the date of en-
2 actment of the Sustainable Fisheries Act, the Sec-
3 retary shall establish an advisory panel on individual
4 transferable quotas under section 302(g)(3) which
5 shall be comprised of fishery scientists and rep-
6 resentatives of the Councils, representatives of af-
7 fected States and fishery dependent communities,
8 fishery participants and conservation organizations.
9 Such advisory panel shall provide recommendations
10 on the guidelines required under paragraph (2), a
11 list of all United States fisheries that may be suited
12 for the development of limited access systems that
13 include individual transferable quotas, and other in-
14 formation as the Secretary or the advisory panel
15 deem appropriate.

16 “(5) An individual transferable quota does not
17 constitute a property right. Nothing in this section
18 or in any other provision of law shall be construed
19 to limit the authority of the Secretary to terminate
20 or limit such individual transferable quota at any
21 time and without compensation to the holder of such
22 quota. The term ‘holder of an individual transferable
23 quota’ includes (A) fishing vessel owners, fishermen,
24 crew members or other citizens of the United States,
25 and (B) United States fish processors.”.

1 **SEC. 112. PLAN REVIEW AND IMPLEMENTATION.**

2 Section 304 (16 U.S.C. 1854) is amended to read as
3 follows:

4 **~~“SEC. 304. PLAN REVIEW AND IMPLEMENTATION.~~**

5 ~~“(a) ACTION BY THE SECRETARY AFTER RECEIPT~~
6 ~~OF PLAN.—~~

7 ~~“(1) Upon transmittal by the Council to the~~
8 ~~Secretary of a fishery management plan, or amend-~~
9 ~~ment to such plan, the Secretary shall—~~

10 ~~“(A) immediately commence a review of~~
11 ~~the management plan or amendment to deter-~~
12 ~~mine whether it is consistent with the national~~
13 ~~standards, the other provisions of this Act, and~~
14 ~~any other applicable law; and~~

15 ~~“(B) immediately publish in the Federal~~
16 ~~Register a notice stating that the plan or~~
17 ~~amendment is available and that written data,~~
18 ~~views, or comments of interested persons on the~~
19 ~~document or amendment may be submitted to~~
20 ~~the Secretary during the 60-day period begin-~~
21 ~~ning on the date the notice is published.~~

22 ~~“(2) In undertaking the review required under~~
23 ~~paragraph (1), the Secretary shall—~~

24 ~~“(A) take into account the data, views, and~~
25 ~~comments received from interested persons;~~

1 “(B) consult with the Secretary of State
2 with respect to foreign fishing; and

3 “(C) consult with the Secretary of the de-
4 partment in which the Coast Guard is operating
5 with respect to enforcement at sea and to fish-
6 ery access adjustments referred to in section
7 303(a)(6).

8 “(3) The Secretary shall approve, disapprove,
9 or partially approve a plan or amendment within 30
10 days of the end of the comment period under para-
11 graph (1) by written notice to the Council. A notice
12 of disapproval or partial approval shall specify—

13 “(A) the applicable law with which the
14 plan or amendment is inconsistent;

15 “(B) the nature of such inconsistencies;
16 and

17 “(C) recommendations concerning the ac-
18 tions that could be taken by the Council to con-
19 form such plan or amendment to the require-
20 ments of applicable law.

21 “(4) If the Secretary disapproves or partially
22 approves a plan or amendment, the Council may
23 submit a revised plan or amendment to the Sec-
24 retary for review under this subsection.

25 “(b) ACTION ON REGULATIONS.—

1 “(1) Upon transmittal by the Council to the
 2 Secretary of proposed regulations prepared under
 3 section 303(c), the Secretary shall immediately initi-
 4 ate an evaluation of the proposed regulations to de-
 5 termine whether they are consistent with the fishery
 6 management plan, this Act and other applicable law.
 7 Within 15 days of initiating such evaluation the Sec-
 8 retary shall make a determination and—

9 “(A) if that determination is affirmative,
 10 the Secretary shall publish such regulations,
 11 with such technical changes as may be nec-
 12 essary for clarity and an explanation of those
 13 changes, in the Federal Register for a public
 14 comment period of 15 to 60 days; or

15 “(B) if that determination is negative, the
 16 Secretary shall notify the Council in writing of
 17 the inconsistencies and provide recommenda-
 18 tions on revisions that would make the proposed
 19 regulations consistent with the fishery manage-
 20 ment plan, this Act, and other applicable law.

21 “(2) Upon receiving a notification under para-
 22 graph (1)(B), the Council may revise the proposed
 23 regulations and submit them to the Secretary for re-
 24 evaluation under paragraph (1).

1 ~~“(3) The Secretary shall promulgate final regu-~~
 2 ~~lations within 30 days after the end of the comment~~
 3 ~~period under paragraph (1)(A). The Secretary shall~~
 4 ~~consult with the Council before making any revisions~~
 5 ~~to the proposed regulations, and must publish in the~~
 6 ~~Federal Register an explanation of any differences~~
 7 ~~between the proposed and final regulations.~~

8 ~~“(c) DEFINITION.— For purposes of subsections (a)~~
 9 ~~and (b), the term ‘immediately’ means on or before the~~
 10 ~~5th day after the day on which a Council transmits to~~
 11 ~~the Secretary a plan, amendment, or proposed regulation~~
 12 ~~that the Council characterizes as final.~~

13 ~~“(d) SECRETARIAL PLAN REVIEW.—~~

14 ~~“(1)(A) Whenever, under section 303(e), the~~
 15 ~~Secretary prepares a fishery management plan or~~
 16 ~~amendment, the Secretary shall immediately—~~

17 ~~“(i) for a plan or amendment prepared~~
 18 ~~under section 303(e)(1), submit such plan or~~
 19 ~~amendment to the appropriate Council for con-~~
 20 ~~sideration and comment; and~~

21 ~~“(ii) publish in the Federal Register a no-~~
 22 ~~tice stating that the plan or amendment is~~
 23 ~~available and that written data, views, or com-~~
 24 ~~ments of interested persons on the plan or~~
 25 ~~amendment may be submitted to the Secretary~~

1 during the 60-day period beginning on the date
2 the notice is published.

3 ~~“(B) Whenever a plan or amendment is submit-~~
4 ~~ted under subsection (1)(A)(i), the appropriate~~
5 ~~Council must submit its comments and recommenda-~~
6 ~~tions, if any, regarding the plan or amendment to~~
7 ~~the Secretary before the close of the 60-day period~~
8 ~~referred to in subparagraph (A)(ii). After the close~~
9 ~~of such 60-day period, the Secretary, after taking~~
10 ~~into account any such comments and recommenda-~~
11 ~~tions, as well as any views, data, or comments sub-~~
12 ~~mitted under subparagraph (A)(ii), may adopt such~~
13 ~~plan or amendment.~~

14 ~~“(2) The Secretary may propose regulations in~~
15 ~~the Federal Register to implement any plan or~~
16 ~~amendment prepared by the Secretary. The com-~~
17 ~~ment period on proposed regulations shall be 60~~
18 ~~days, except that the Secretary may shorten the~~
19 ~~comment period on minor revisions to existing regu-~~
20 ~~lations.~~

21 ~~“(3) The Secretary shall promulgate final regu-~~
22 ~~lations within 30 days after the end of the comment~~
23 ~~period under paragraph (3). The Secretary must~~
24 ~~publish in the Federal Register an explanation of~~
25 ~~any substantive differences between the proposed~~

1 and final rules. All final regulations must be consist-
 2 ent with the plan, with the national standards and
 3 other provisions of this Act, and with any other ap-
 4 plicable law.

5 ~~“(e) JUDICIAL REVIEW.—~~

6 ~~“(1) Regulations promulgated by the Secretary~~
 7 ~~under this Act and actions described in paragraph~~
 8 ~~(2) shall be subject to judicial review to the extent~~
 9 ~~authorized by, and in accordance with, chapter 7 of~~
 10 ~~title 5, United States Code, if a complaint for such~~
 11 ~~review is filed within 30 days after the date on~~
 12 ~~which the regulations are promulgated or the action~~
 13 ~~is published in the Federal Register, as applicable;~~
 14 ~~except that—~~

15 ~~“(A) section 705 of such title is not appli-~~
 16 ~~cable, and~~

17 ~~“(B) the appropriate court shall only set~~
 18 ~~aside any such regulation or action on a ground~~
 19 ~~specified in section 706(2)(A), (B), (C), or (D)~~
 20 ~~of such title.~~

21 ~~“(2) The actions referred to in paragraph (1)~~
 22 ~~are actions that are taken by the Secretary under~~
 23 ~~regulations which implement a fishery management~~
 24 ~~plan, including but not limited to actions that estab-~~

lish the date of closure of a fishery to commercial or recreational fishing.

~~“(3) (A) Notwithstanding any other provision of law, the Secretary shall file a response to any complaint filed in accordance with paragraph (1) not later than 45 days after the date the Secretary is served with that complaint, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.~~

~~“(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.~~

~~“(4) Upon a motion by the person who files a complaint under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.~~

~~“(f) ESTABLISHMENT OF FEES.—~~

~~“(1) The Secretary shall by regulation establish the level of any fees that are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States admin-~~

1 ister the permit system and the agreement may pro-
 2 vide that all or part of the fees collected under the
 3 system shall accrue to the States. The level of fees
 4 charged under this paragraph shall not exceed the
 5 administrative costs incurred in issuing the permits.

6 ~~“(2)(A) Notwithstanding paragraph (1), the~~
 7 Secretary shall collect a fee from each person hold-
 8 ing an individual transferable quota pursuant to a
 9 limited access system established under section
 10 ~~303(b)(6).~~ Fees assessed under this paragraph shall
 11 be sufficient to recover the cost of managing the
 12 fishery to which the quota applies, including reason-
 13 able costs for salaries, training, data analysis and
 14 other costs directly related to fishery management
 15 and enforcement, up to—

16 ~~“(i) four percent annually of the value of~~
 17 fish harvested or processed in that year under
 18 the individual transferable quota; and

19 ~~“(ii) an additional 1 percent of the value~~
 20 of fish authorized to be harvested or processed
 21 for that year under the individual transferable
 22 quota to be assessed on a person receiving an
 23 initial quota or transferring a quota.

24 ~~“(B) The Secretary, in consultation with the~~
 25 Councils, shall promulgate regulations, prescribing

1 the method of determining the value of fish author-
 2 ized to be taken, the amount of each fee, and the
 3 method of collecting fees. Fees collected under this
 4 paragraph shall meet the requirements of section
 5 9701(b) of title 31, United States Code. Fees col-
 6 lected under this paragraph shall be an offsetting
 7 collection and shall be available only to the Secretary
 8 for the purposes of administering and implementing
 9 this Act in the region in which the fees were col-
 10 lected.

11 “(C) Persons holding individual transferable
 12 quota pursuant to limited access systems established
 13 in the surf clam and ocean quahog fishery or in the
 14 wreckfish fishery are exempt from the collection of
 15 fees under this paragraph for a period ending 5
 16 years after the date of enactment of the Sustainable
 17 Fisheries Act.

18 “(g) EFFECT OF CERTAIN LAWS ON CERTAIN TIME
 19 REQUIREMENTS.—The Secretary shall comply with any
 20 applicable provisions of chapter 35 of title 44, United
 21 States Code, chapter 6 of title 5, United States Code, and
 22 Executive Order Numbered 12866, dated September 30,
 23 1993, within the time limitations specified in subsections
 24 (a) and (b).

1 “(h) RESPONSIBILITY OF THE SECRETARY.—The
 2 Secretary shall have general responsibility to carry out the
 3 provisions of this Act. The Secretary may promulgate such
 4 regulations, in accordance with section 553 of title 5,
 5 United States Code, as may be necessary to discharge
 6 such responsibility.”.

7 **SEC. 113. ECOSYSTEM MANAGEMENT.**

8 Section 305 (16 U.S.C. 1855) is amended to read as
 9 follows:

10 **“SEC. 305. ECOSYSTEM MANAGEMENT.**

11 “(a) REPORT ON STATUS OF FISHERIES.—The Sec-
 12 retary shall report annually to the Congress and the Coun-
 13 cils on the status of fisheries within each Council’s geo-
 14 graphical area of authority and identify those fisheries
 15 that are approaching a condition of being overfished or
 16 are overfished. For those fisheries managed under a fish-
 17 ery management plan, the status shall be assessed using
 18 the criteria for overfishing specified by the appropriate
 19 Council under section 303(a)(10). A fishery shall be classi-
 20 fied as approaching a condition of being overfished if,
 21 based on trends in fishing effort, fishery resource size, and
 22 other appropriate factors, the Secretary estimates that the
 23 fishery will become overfished within 2 years. Any fishery
 24 determined to be a commercial fishery failure under sec-

tion 316, shall be deemed to be overfished for the purposes
of subsections (a) and (b).

“(b) FISHERY RECOVERY EFFORT.—

“(1) The Council shall take immediate action to
prepare a fishery management plan, a plan amend-
ment, or proposed regulations for fisheries under
such Council’s authority—

“(A) to prevent overfishing of a fishery
from occurring whenever such fishery is classi-
fied under subsection (a) as approaching an
overfished condition, or

“(B) to stop overfishing of a fishery when-
ever such fishery is classified under subsection
(a) as overfished, and to rebuild affected stocks
of fish.

“(2) The Council shall submit a fishery man-
agement plan, amendment or proposed regulations
required under paragraph (1) to the Secretary with-
in 1 year from the date of transmittal of the report
on the status of stocks under subsection (a). For a
fishery that is overfished, such fishery management
plan, amendment or proposed regulations shall speci-
fy a time period for stopping overfishing and re-
building the fishery. The time period shall be as
short as possible, taking into account the status and

1 biology of the overfished stock of fish, the needs of
 2 fishery-dependent communities, and the interaction
 3 of the overfished stock of fish within the marine eco-
 4 system. The time period may not be more than 10
 5 years, except under extraordinary circumstances.

6 “(3) During the development of a fishery man-
 7 agement plan, a plan amendment, or proposed regu-
 8 lations under this subsection, the Council may re-
 9 quest that the Secretary promulgate emergency reg-
 10 ulations under subsection (c)(2) to reduce overfish-
 11 ing. Any request by the Council under this para-
 12 graph shall be deemed an emergency.

13 “(c) FISH HABITAT.—

14 “(1) The Secretary, in cooperation with the
 15 Councils and the Secretary of the Interior, after no-
 16 tice and public comment, shall identify the essential
 17 fish habitat for each fishery for which a fishery
 18 management plan is in effect. The identification
 19 shall be based on the description of essential fish
 20 habitat contained in the plan.

21 “(2) Each Council—

22 “(A) may comment on and make rec-
 23 ommendations concerning any activity under-
 24 taken, or proposed to be undertaken, by any
 25 Federal or State agency that, in the view of the

1 Council, may have an adverse effect on essential
2 fish habitat of a fishery under its authority;
3 and

4 “(B) shall comment on and make rec-
5 ommendations to any Federal or State depart-
6 ment or agency concerning any such activity
7 that, in the view of the Council is likely to sub-
8 stantially affect the habitat of an anadromous
9 fishery resource under its jurisdiction.

10 “(3) If the Secretary receives information from
11 a Council or determines from other sources that an
12 action authorized, funded, carried out, or proposed
13 to be carried out by any Federal agency may result
14 in the destruction or adverse modification of any es-
15 sential fish habitat identified under paragraph (1),
16 the Secretary shall comment on and make rec-
17 ommendations to the Federal agency concerning that
18 action.

19 “(4) Within 45 days after receiving a comment
20 or recommendation under paragraphs (2) or (3)
21 from a Council or the Secretary, a Federal agency
22 shall provide a detailed response, in writing, to the
23 commenting Council and the Secretary regarding the
24 matter. The response shall include a description of
25 measures being considered by the agency for avoid-

1 ing, mitigating, or offsetting the impact of the activ-
 2 ity on such habitat. In the case of a response that
 3 is inconsistent with a recommendation from any
 4 Council or the Secretary, the Federal agency shall
 5 explain its reasons for not following the rec-
 6 ommendations.

7 “(d) GEAR EVALUATION AND NOTIFICATION OF
 8 ENTRY.—

9 “(1) Each Council shall submit to the Secretary
 10 by June 1, 1996, information describing (A) all fish-
 11 ing technologies employed under such Council’s au-
 12 thority; and (B) all fisheries under the authority of
 13 such Council. The Secretary shall compile such in-
 14 formation, along with information to comply with
 15 both (A) and (B) for fisheries to which section
 16 302(a)(3) applies.

17 “(2) By July 15, 1996, the Secretary shall pub-
 18 lish a proposed list of all technologies and fisheries,
 19 for each Council and for fisheries to which section
 20 302(a)(3) applies, in the Federal Register for a pub-
 21 lic comment period of not less than 60 days. The
 22 Secretary shall include with such list specific guide-
 23 lines for determining when a technology or fishery is
 24 sufficiently different from those listed as to require
 25 notification under paragraph (3). Within 30 days

1 after the close of the public comment period the Sec-
2 retary shall publish in the Federal Register a final
3 list (including the guidelines), after taking into ac-
4 count any public comment received.

5 “(3) Beginning on the date that is 180 days
6 after the date of the publication of the final list re-
7 quired under paragraph (2), no person or vessel
8 shall employ a fishing technology or engage in a
9 fishery that is not included on the final list for the
10 appropriate Council or for fisheries to which section
11 302(a)(3) applies without first giving 90 days ad-
12 vance written notice of the intent to employ such un-
13 listed technology or engage in such unlisted fishery
14 to the appropriate Council, or the Secretary with re-
15 spect to a fishery to which section 302(a)(3) applies.
16 Such notice shall be by first class mail, return re-
17 ceipt requested, and shall include information on the
18 use of the unlisted technology in other fisheries, if
19 any, and a detailed description, including drawings,
20 maps or diagrams if appropriate, of the unlisted
21 technology or unlisted fishery which such person or
22 vessel seeks to employ or engage in.

23 “(4) A Council may submit to the Secretary
24 amendments to the final list published under para-
25 graph (2) to reflect any substantial changes in the

1 fishing technologies employed or fisheries engaged in
2 under the authority of such Council. The Secretary
3 may submit any amendments for fisheries to which
4 section 302(a)(3) applies. The Secretary shall pub-
5 lish any such amendments in the Federal Register
6 as proposed amendments (along with any proposed
7 revisions to the guidelines) to the final list for a
8 public comment period of not less than 60 days.
9 Within 45 days of the close of the comment period,
10 the Secretary shall publish a revised final list incor-
11 porating such proposed amendments, after taking
12 into account any public comments received.

13 “(5) A Council may request the Secretary to
14 promulgate emergency regulations under subsection
15 (c) prohibiting any persons or vessels from employ-
16 ing an unlisted technology or engaging in an un-
17 listed fishery if the appropriate Council, or the Sec-
18 retary for fisheries to which section 302(a)(3) ap-
19 plies, determines that use of such technology or
20 entry into such fishery would compromise the effec-
21 tiveness of conservation and management efforts
22 under this Act.

23 “(6) If, after providing the notice required
24 under paragraph (3), no emergency regulations are
25 implemented under paragraph (5), the person or ves-

1 sel submitting notice under paragraph (2) may, after
 2 the required 90 day period has lapsed, employ the
 3 unlisted technology or enter the unlisted fishery to
 4 which such notice applies. The signed return receipt
 5 shall constitute adequate evidence of the submittal
 6 of such notice and the date upon which the 90-day
 7 period begins.

8 “(7) A violation of this subsection shall be con-
 9 sidered a violation of section 307, punishable under
 10 section 308.

11 “(e) EMERGENCY ACTIONS.—

12 “(1) If the Secretary finds that an emergency
 13 exists involving any fishery, he may promulgate
 14 emergency regulations necessary to address the
 15 emergency, without regard to whether a fishery
 16 management plan exists for such fishery.

17 “(2) If a Council finds that an emergency exists
 18 involving any fishery within its jurisdiction, whether
 19 or not a fishery management plan exists for such
 20 fishery—

21 “(A) the Secretary shall promulgate emer-
 22 gency regulations under paragraph (1) to ad-
 23 dress the emergency if the Council, by unani-
 24 mous vote of the voting members of the Coun-
 25 cil, requests the taking of such action; and

1 “(B) the Secretary may promulgate emer-
 2 gency regulations under paragraph (1) to ad-
 3 dress the emergency if the Council, by less than
 4 a unanimous vote, requests the taking of such
 5 action.

6 “(3) Any emergency regulation which changes
 7 an existing fishery management plan shall be treated
 8 as an amendment to such plan for the period in
 9 which such regulation is in effect. Any emergency
 10 regulation promulgated under this subsection—

11 “(A) shall be published in the Federal
 12 Register together with the reasons therefor;

13 “(B) shall, except as provided in subpara-
 14 graph (C), remain in effect for not more than
 15 180 days after the date of publication, and may
 16 be extended by publication in the Federal Reg-
 17 ister for an additional period of not more than
 18 180 days, provided the public has had an op-
 19 portunity to comment on the emergency regula-
 20 tion, and, in the case of a Council recommenda-
 21 tion for emergency regulations, the Council is
 22 actively preparing a fishery management plan,
 23 amendment, or proposed regulations to address
 24 the emergency on a permanent basis;

1 “(C) that responds to a public health
2 emergency may remain in effect until the cir-
3 cumstances that created the emergency no
4 longer exist, provided that the Secretary of
5 Health and Human Services concurs with the
6 Secretary’s action and the public has an oppor-
7 tunity to comment after the regulation is pub-
8 lished;

9 “(D) that reduces overfishing may be ap-
10 proved without regard to the requirements of
11 section 301(a)(1); and

12 “(E) may be terminated by the Secretary
13 at an earlier date by publication in the Federal
14 Register of a notice of termination, except for
15 emergency regulations promulgated under para-
16 graph (2) in which case such early termination
17 may be made only upon the agreement of the
18 Secretary and the Council concerned.

19 “(4) The Secretary may, pursuant to guidelines
20 established by a Council in a fishery management
21 plan, close or restrict a particular fishery covered by
22 such fishery management plan in order to prevent
23 overfishing or reduce bycatch. Any such guidelines
24 shall specify appropriate means for providing timely
25 notice to fishermen of any closure or restriction. In

1 exercising the authority granted under this para-
 2 graph, the Secretary shall not be required to provide
 3 an opportunity for notice and comment if such clo-
 4 sure or restriction is done in accordance with the
 5 fishery management plan guidelines and does not ex-
 6 tend beyond the end of the current fishing period es-
 7 tablished for that fishery by the fishery management
 8 plan.”.

9 **SEC. 114. STATE JURISDICTION.**

10 (a) Section 306(b) (16 U.S.C. 1856(b)) is amended
 11 by adding at the end the following:

12 “(3) If the State involved requests that a hear-
 13 ing be held pursuant to paragraph (1), the Secretary
 14 shall conduct such hearing prior to taking any action
 15 under paragraph (1).”.

16 (b) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is
 17 amended—

18 (1) by striking “and” in subparagraph (A);

19 (2) by striking the period at the end of sub-
 20 paragraph (B) and inserting a semicolon and the
 21 word “and”; and

22 (3) by inserting after subparagraph (B) the fol-
 23 lowing:

24 “(C) the owner or operator of the vessel
 25 submits reports on the tonnage of fish received

1 from U.S. vessels and the locations from which
 2 such fish were harvested, in accordance with
 3 such procedures as the Secretary by regulation
 4 shall prescribe.”.

5 **SEC. 115. PROHIBITED ACTS.**

6 (a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is
 7 amended by striking “American Lobster Fishery Manage-
 8 ment Plan, as implemented by” and “; or any successor
 9 to that plan, implemented under this title”.

10 (b) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is
 11 amended to read as follows:

12 “(L) to forcibly assault, resist, oppose, im-
 13 pede, intimidate, sexually harass, or interfere
 14 with any observer on a vessel under this Act, or
 15 any data collector employed by or under con-
 16 tract to the National Marine Fisheries Serv-
 17 ice;”.

18 (c) Section 307(1)(M) (16 U.S.C. 1857(1)(M)) is
 19 amended to read as follows:

20 “(M) to engage in large-scale driftnet fish-
 21 ing on a vessel of the United States or a vessel
 22 subject to the jurisdiction of the United States
 23 upon the high seas beyond the exclusive eco-
 24 nomic zone of any nation or within the exclusive
 25 economic zone of the United States; (and any

1 vessel that is shoreward of the outer boundary
 2 of the exclusive economic zone of the United
 3 States or beyond the exclusive economic zone of
 4 any nation, and that has onboard gear that is
 5 capable of use for large-scale driftnet fishing,
 6 shall be presumed to be engaged in such fish-
 7 ing, but that presumption may be rebutted);
 8 or”.

9 (d) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is
 10 amended to read as follows:

11 “(A) in fishing within the boundaries of
 12 any State, except—

13 “(i) recreational fishing permitted
 14 under section 201(i),

15 “(ii) fish processing permitted under
 16 section 306(c), or

17 “(iii) transshipment at sea of fish
 18 products within the boundaries of any
 19 State in accordance with a permit ap-
 20 proved under section 204(b)(6)(A)(ii);”.

21 (e) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is
 22 amended by striking “201(j)” and inserting “201(i)”.

23 (f) Section 307(3) (16 U.S.C. 1857(3)) is amended
 24 to read as follows:

1 “(3) for any vessel of the United States, and
 2 for the owner or operator of any vessel of the United
 3 States, to transfer at sea directly or indirectly, or at-
 4 tempt to so transfer at sea, any United States har-
 5 vested fish to any foreign fishing vessel, while such
 6 foreign vessel is within the exclusive economic zone
 7 or within the boundaries of any State except to the
 8 extent that the foreign fishing vessel has been per-
 9 mitted under section 204(b)(6)(B) or section 306(e)
 10 to receive such fish;”.

11 (g) Section 307(4) (16 U.S.C. 1857(4)) is amended
 12 by inserting “or within the boundaries of any State” after
 13 “zone”.

14 **SEC. 116. CIVIL PENALTIES AND PERMIT SANCTIONS.**

15 (a) The first sentence of section 308(b) (16 U.S.C.
 16 1858(b)) is amended to read as follows: “Any person
 17 against whom a civil penalty is assessed under subsection
 18 (a), or against whom a permit sanction is imposed under
 19 subsection (g) (other than a permit suspension for nonpay-
 20 ment of penalty or fine), may obtain review thereof in the
 21 United States district court for the appropriate district by
 22 filing a complaint against the Secretary in such court
 23 within 30 days from the date of such order.”.

24 (b) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C))
 25 is amended by striking the matter from “(C) any” through

1 “overdue,” and inserting the following: “(C) any amount
 2 in settlement of a civil forfeiture imposed on a vessel or
 3 other property, or any civil penalty or criminal fine im-
 4 posed on a vessel or owner or operator of a vessel or any
 5 other person who has been issued or has applied for a per-
 6 mit under any marine resource law enforced by the Sec-
 7 retary, has not been paid and is overdue,”.

8 (e) Section 308(16 U.S.C. 1858) is amended by in-
 9 serting at the end thereof the following:

10 “(h) After deduction for any administrative or en-
 11 forcement costs incurred or other expenditures authorized
 12 under this Act, all funds collected under this section shall
 13 be deposited in a separate account of the Ocean Conserva-
 14 tion Trust Fund established under section 315.”.

15 **SEC. 117. ENFORCEMENT.**

16 (a) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is
 17 amended—

18 (1) by striking “fishery” each place it appears
 19 and inserting “marine”;

20 (2) by inserting “of not less than 20 percent of
 21 the penalty collected” after “reward” in subpara-
 22 graph (B); and

23 (3) by striking subparagraph (E) and inserting
 24 the following:

1 “(E) claims of parties in interest to prop-
 2 erty disposed of under section 612(b) of the
 3 Tariff Act of 1930 (19 U.S.C. 1612(b)), as
 4 made applicable by section 310(e) of this Act or
 5 by any other marine resource law enforced by
 6 the Secretary, to seizures made by the Sec-
 7 retary, in amounts determined by the Secretary
 8 to be applicable to such claims at the time of
 9 seizure; and”.

10 (b) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is
 11 amended to read as follows:

12 “(2) Any person found in an administrative or
 13 judicial proceeding to have violated this Act or any
 14 other marine resource law enforced by the Secretary
 15 shall be liable for the cost incurred in the sale, stor-
 16 age, care, and maintenance of any fish or other
 17 property lawfully seized in connection with the viola-
 18 tion.”.

19 (c) Section 311 (16 U.S.C. 1861) is amended by re-
 20 designating subsection (f) as subsection (h), and by insert-
 21 ing the following after subsection (e):

22 “(f) ANNUAL REPORT ON ENFORCEMENT.—Each
 23 year at the time the President’s budget is submitted to
 24 the Congress, the Secretary and the Secretary of the De-
 25 partment in which the Coast Guard is operating shall,

1 after consultation with the Councils, submit a report on
 2 the effectiveness of the enforcement of fishery manage-
 3 ment plans and regulations to implement such plans under
 4 the jurisdiction of each Council, including—

5 “(1) an analysis of the adequacy of federal per-
 6 sonnel and funding resources related to the enforce-
 7 ment of fishery management plans and regulations
 8 to implement such plans; and

9 “(2) recommendations to improve enforcement
 10 that should be considered in developing amendments
 11 to plans or to regulations implementing such plans.

12 “(g) FISHERMEN’S INFORMATION NETWORKS.—The
 13 Secretary, in consultation with the Secretary of the de-
 14 partment in which the Coast Guard is operating, shall con-
 15 duct a program to encourage the formation of volunteer
 16 networks, to be designated as Fishermen’s Information
 17 Networks, to advise on and assist in the monitoring, re-
 18 porting, and prevention of violations of this Act.”.

19 **SEC. 118. NORTH PACIFIC FISHERIES CONSERVATION.**

20 Section 313 (16 U.S.C. 1862) is amended—

21 (1) by striking “research plan” in the section
 22 heading and inserting “conservation”; and

23 (b) by adding at the end the following:

24 “(f) REDUCTION OF WASTE.—

1 “(1) No later than June 1, 1996, the North Pa-
2 cific Fishery Management Council shall include in
3 each fishery management plan under its jurisdiction
4 conservation and management measures, including
5 fees or other incentives, to reduce bycatch in each
6 fishery. Notwithstanding section 304(d), in imple-
7 menting this subsection the Council may rec-
8 ommend, and the Secretary may approve and imple-
9 ment any such recommendation, consistent with the
10 other provisions of this Act, a system of fees to pro-
11 vide an incentive to reduce bycatch, and, in particu-
12 lar, economic and regulatory discards. Any such sys-
13 tem of fees or incentives shall be fair and equitable
14 to all fishermen and United States fish processors,
15 and shall not have economic allocation as its sole
16 purpose.

17 “(2) Not later than January 1, 1997, the North
18 Pacific Fishery Management Council shall rec-
19 ommend, and the Secretary may approve and imple-
20 ment any such recommendation, consistent with the
21 other provisions of this Act, conservation and man-
22 agement measures to ensure total catch measure-
23 ment in each fishery under the Council’s jurisdic-
24 tion. Such conservation and management measures

1 shall ensure the accurate enumeration of target spe-
 2 cies, economic discards, and regulatory discards.

3 “(3) Beginning on January 1, 1998, such con-
 4 servation and management measures shall include a
 5 harvest preference or other incentives to fishing and
 6 processing practices within each gear group that re-
 7 sult in the lowest levels of economic discards, proc-
 8 essing waste, regulatory discards, and other bycatch.
 9 In determining which practices shall be given prior-
 10 ity, the reduction of economic discards shall be given
 11 the greatest weight, followed by processing waste
 12 (where applicable), regulatory discards and other
 13 bycatch, in that order.

14 “(4) In determining the level of target species
 15 catch, economic discards, regulatory discards, other
 16 bycatch, and processing waste, the Council and Sec-
 17 retary shall base such determinations on observer
 18 data or the best available information.

19 “(5) In the case of fisheries occurring under an
 20 individual transferable quota system under the juris-
 21 diction of the North Pacific Fishery Management
 22 Council after January 1, 1998—

23 “(A) the Council shall designate non-target
 24 species, bycatch species, and regulatory discards
 25 for each such fishery;

1 “(B) the Council may not recommend, and
 2 the Secretary may not approve, any assignment
 3 or allocation of individual transferable quotas
 4 for regulatory discards, or non-target species
 5 for those fisheries, other than for each individ-
 6 ual fishing season on an annual basis pursuant
 7 to subparagraph (C) of this paragraph; and

8 “(C) any harvest preference required under
 9 paragraph (3) shall be implemented by giving
 10 priority in the allocation of quotas for regu-
 11 latory discards and non-target species and to
 12 fishing practices that result in the lowest levels
 13 of economic discards, regulatory discards, proc-
 14 essing waste, and other bycatch.

15 “(6) Nothing in this section shall be construed
 16 to preclude the North Pacific Fishery Management
 17 Council from allocating a portion of any quota for
 18 a directed fishery for use as bycatch in another fish-
 19 ery or fisheries, if the Council determines such allo-
 20 cation is necessary to prosecute a fishery, after tak-
 21 ing into account the requirements of this section re-
 22 garding reduction of bycatch and processing waste.

23 “(g) FULL RETENTION AND FULL UTILIZATION.—

24 “(1) The North Pacific Fishery Management
 25 Council shall, consistent with the other provisions of

1 this Act, submit to the Secretary by January 1,
2 1997, a plan to phase-in by January 1, 2000, to the
3 maximum extent practicable, fishery management
4 plan amendments to require full retention by fishing
5 vessels and full utilization by United States fish
6 processors of all fishery resources, except regulatory
7 discards, caught under the jurisdiction of such
8 Council if such fishery resources cannot be quickly
9 returned alive to the sea with the expectation of ex-
10 tended survival.

11 “(2) The plan shall include conservation and
12 management measures to minimize processing waste
13 and ensure the optimum utilization of target species,
14 including standards setting minimum percentages of
15 target species harvest which must be processed for
16 human consumption.

17 “(3) In determining the maximum extent prac-
18 ticable, the North Pacific Fishery Management
19 Council shall consider—

20 “(A) the state of available technology;

21 “(B) the extent to which species brought
22 on board can be safely returned alive, with the
23 expectation of extended survival, to the sea;

1 “(C) the extent to which each species is
2 fully utilized as a target species by United
3 States fishermen;

4 “(D) the impact of different processing
5 practices on the price paid to fishermen and
6 processors;

7 “(E) the nature and economic costs of
8 each specific fishery; and

9 “(F) the effect of a full retention or full
10 utilization requirement in a given fishery on
11 other fisheries when compared with the bene-
12 ficial effect of reducing economic discards and
13 processing waste.

14 “(4) Notwithstanding section 304(f), the North
15 Pacific Fishery Management Council may propose;
16 and the Secretary may approve and implement any
17 such recommendation, consistent with the other pro-
18 visions of this Act, a system of fines or other incen-
19 tives to implement this section. Any such fines or in-
20 centive system shall be fair and equitable to all fish-
21 ing vessels and United States fish processors, and
22 shall not have economic allocation as its sole pur-
23 pose.

24 “(h) REGULATORY DISCARDS.—

1 “(1) Regulatory discards shall not be consid-
2 ered an economic discard for purposes of this sec-
3 tion; however, the North Pacific Fishery Manage-
4 ment Council shall seek to reduce the incidental
5 catch of regulatory discards to the maximum extent
6 practicable while allowing for the prosecution of fish-
7 eries under its jurisdiction.

8 “(2) Not later than June 1, 1996, the North
9 Pacific Fishery Management Council shall propose;
10 and the Secretary may approve and implement any
11 such recommendation, consistent with the other pro-
12 visions of this Act, for each groundfish fishery under
13 the Council’s jurisdiction, conservation and manage-
14 ment measures to reduce the incidental harvest of
15 regulatory discards to the minimum level necessary
16 to prosecute directed fisheries for designated target
17 species, and to otherwise meet the requirements of
18 this section. Notwithstanding section 304(f), such
19 conservation and management measures may include
20 a system of fines, caps, or other incentives to reduce
21 the incidental harvest of regulatory discards. Any
22 system of fines or incentives under this section shall
23 be fair and equitable to all fishing vessels and Unit-
24 ed States fish processors, and shall not have eco-
25 nomic allocation as its sole purpose.

1 ~~“(3) The North Pacific Fishery Management~~
 2 ~~Council shall establish for each fishery which inci-~~
 3 ~~dentally harvests regulatory discards under the~~
 4 ~~Council’s jurisdiction a cap which prevents such regu-~~
 5 ~~latory discards from being overfished or from being~~
 6 ~~placed in risk of being overfished. Upon reaching~~
 7 ~~such cap, the commercial fishery in which such regu-~~
 8 ~~latory discards are incidentally caught shall be~~
 9 ~~closed for that season.~~

10 ~~“(i) OBSERVER PROGRAM.—~~

11 ~~“(1) Beginning June 1, 1996, the North Pacific~~
 12 ~~Fishery Management Council shall require under the~~
 13 ~~authority granted to it by subsection (a)—~~

14 ~~“(A) 100 percent observer coverage on all~~
 15 ~~fishing vessels which can safely accommodate~~
 16 ~~an observer or observers, and at all United~~
 17 ~~States fish processors to the extent that fund-~~
 18 ~~ing for such coverage is available, and~~

19 ~~“(B) for vessels which cannot safely ac-~~
 20 ~~commodate an observer, statistically reliable~~
 21 ~~sampling of a fishing vessel’s effort in each~~
 22 ~~fishery in which that fishing vessel participates,~~
 23 ~~when such vessel or processor is fishing in a fishery~~
 24 ~~under the North Pacific Fishery Management Coun-~~
 25 ~~cil’s jurisdiction. In implementing subparagraph (A)~~

1 the North Pacific Fishery Management Council shall
2 require that more than one observer be stationed on
3 a fishing vessel or at a United States fish processor
4 whenever the Council determines that more than one
5 such observer is necessary to accurately monitor that
6 vessel or processor's operation.

7 “(2) Observers stationed on fishing vessels or at
8 United States fish processors under the authority of
9 this section shall be paid by the Secretary using
10 funds deposited in the North Pacific Fishery Ob-
11 server Fund. Such payment shall not make an ob-
12 server an employee of the Federal Government, un-
13 less such observer is otherwise employed by an agen-
14 cy of the United States.

15 “(3) Failure to pay the fee established by the
16 North Pacific Fishery Management Council under
17 subsection (a) shall be a considered a violation of
18 section 307, punishable under section 308. Any fines
19 collected pursuant to the authority granted by this
20 subsection shall be deposited in the North Pacific
21 Fishery Observer Fund account in the United States
22 Treasury, and shall remain available until expended
23 under the terms of that fund.

24 “(4) Notwithstanding sections 304(f) and sub-
25 section (b), the Secretary is authorized to recover

1 from vessels participating in a fishery under an indi-
2 vidual fishing quota regime or other limited access
3 program established by the North Pacific Fishery
4 Management Council, the full cost of any observers
5 stationed on such vessel (including all costs for sala-
6 ries, expenses, equipment, food and lodging, trans-
7 portation, insurance, and analysis of observer data,
8 plus reasonable costs for training and administrative
9 overhead). Each participant in an individual fishing
10 quota regime shall only be required to contribute the
11 same proportion of the costs as that participant's
12 quota shares represent to the total number of quota
13 shares in such regime. To the extent that the costs
14 recovered under this paragraph exceed the fee estab-
15 lished by the Council under subsection (b), the Sec-
16 retary shall deduct any payment by a vessel under
17 subsection (b) from the amount owed by such vessel
18 under this paragraph. The Secretary shall deposit
19 any fees collected under this paragraph in the North
20 Pacific Fishery Observer Fund account in the Unit-
21 ed States Treasury.

22 “(j) INDUSTRY ASSISTANCE.—

23 “(1) The Secretary shall submit a plan by Jan-
24 uary 1, 1996, to the Committee on Commerce,
25 Science, and Transportation of the Senate and the

1 Committee on Resources of the House of Represent-
2 atives to develop jointly with industry accurate
3 methods of weighing the fish harvested by United
4 States fishing vessels in fisheries under the jurisdic-
5 tion of the North Pacific Fishery Management
6 Council. Such plan shall include methods for assess-
7 ing contributions from industry to fund such devel-
8 opment, as well as recommendations from the Sec-
9 retary concerning the level of funds needed to suc-
10 cessfully implement the plan in fiscal year 1997.

11 “(2) The Secretary shall submit by January 1,
12 1996, to the Committee on Commerce, Science, and
13 Transportation of the Senate and the Committee on
14 Resources of the House of Representatives a plan to
15 develop markets and harvesting and processing tech-
16 niques for arrowtooth flounder. The Secretary shall
17 include in such plan recommendations concerning
18 the level of funds needed to successfully implement
19 the plan in fiscal year 1997.

20 “(3) For fiscal years 1996, 1997, 1998, and
21 1999, \$50,000 is authorized to be appropriated for
22 the purposes of implementing paragraph (1); and
23 \$250,000 is authorized to be appropriated for pro-
24 grams to implement paragraph (2).

1 “(k) DEFINITION.—For the purposes of this section,
 2 ‘processing waste’ means that portion of a fish which is
 3 processed and which could be used for human consump-
 4 tion or other commercial use, but which is not so used.”.

5 **SEC. 119. TRANSITION TO SUSTAINABLE FISHERIES.**

6 (a) The Act is amended by adding at the end of title
 7 III the following:

8 **“SEC. 315. TRANSITION TO SUSTAINABLE FISHERIES.**

9 “(a) SUSTAINABLE DEVELOPMENT STRATEGY.—

10 “(1) At the discretion of the Secretary or at the
 11 request of the Governor of an affected State or a
 12 fishery dependent community, the Secretary, in con-
 13 sultation with the Councils and Federal agencies, as
 14 appropriate, may work with regional authorities, af-
 15 fected States, fishery dependent communities, the
 16 fishing industry, conservation organizations, and
 17 other interested parties, to develop a sustainable de-
 18 velopment strategy for any fishery classified as over-
 19 fished under section 305(a) or determined to be a
 20 commercial fishery failure under section 316.

21 “(2) Such sustainable development strategy
 22 shall—

23 “(A) take into consideration the economic,
 24 social, and ecological factors affecting the fish-
 25 ery and provide recommendations for address-

ing such factors in the development of a fishery
recovery effort under section 305(b);

“(B) identify Federal and State programs
which can be used to provide assistance to fish-
ery dependent communities during development
and implementation of a fishery recovery effort;

“(C) develop a balanced and comprehensive
long-term plan to guide the transition to a sus-
tainable fishery; identifying alternative eco-
nomic opportunities and establishing long-term
objectives for the fishery including vessel types
and sizes; harvesting and processing capacity;
and optimal fleet size;

“(D) establish procedures to implement
such a plan and facilitate consensus and coordi-
nation in regional decision-making; and

“(E) include any program established
under subsection (b) to reduce the number of
vessels or level of capital investment in the fish-
ery.

“(2) REPORT.—The Secretary shall complete
and submit to the Congress a report on any sustain-
able development strategy developed under this sec-
tion within 6 months and annually thereafter.

“(b) BUY-OUT PROGRAM.—

1 “(1) The Secretary, in consultation with the ap-
2 propriate Council, may develop and implement a
3 buy-out program for fishing vessels or permits in a
4 fishery for the purpose of reducing the number of
5 fishing vessels and fishing effort in such fishery, if
6 the Secretary, with the concurrence of the majority
7 of the voting members of such Council, determines
8 that a buy-out program is necessary for the develop-
9 ment and implementation of a fishery recovery effort
10 under section 305(b).

11 “(2) Any buy-out program developed or imple-
12 mented in a fishery shall—

13 “(A) require a fishery management plan to
14 be in place for such fishery that is adequate to
15 limit access to the fishery and prevent the re-
16 placement of fishing effort removed by the buy-
17 out program;

18 “(B) require fishing vessels or permits ac-
19 quired under such program to be disposed of in
20 a manner ensuring that such vessels or permits
21 do not re-enter the fishery or contribute to ex-
22 cess fishing effort in other fisheries;

23 “(C) establish criteria for determining
24 types and numbers of vessels which are eligible

1 for participation in such program consistent
2 with—

3 “(i) any strategy developed under sub-
4 section (a);

5 “(ii) the requirements of applicable
6 fishery management plans; and

7 “(iii) the need to minimize program
8 costs;

9 “(D) establish procedures (such as submis-
10 sion of owner bid under an auction system or
11 fair market-value assessment) to be used in de-
12 termining the level of payment for fishing ves-
13 sels or permits acquired under the program;
14 and

15 “(E) identify Federal and non-Federal
16 mechanisms for funding the buy-out program;
17 consistent with paragraphs (3) and (4).

18 “(3) The Federal share of the cost of a buy-out
19 program implemented under this section shall not
20 exceed 50 percent of the cost of that program. Such
21 Federal share may be provided from monies depos-
22 ited in the Ocean Conservation Trust Fund under
23 section 308(h) or monies made available under sec-
24 tion 316(b) of this Act or under section 2(b) of the
25 Act of August 11, 1939 (15 U.S.C. 713c-3(b)).

1 “(4) Notwithstanding section 305(f)(1), the
2 Secretary, with the concurrence of a majority of the
3 voting members of the affected Council, may estab-
4 lish a fee system to collect those funds required for
5 the non-Federal share of such program that are not
6 available from other non-Federal sources. Under
7 such fee system, the Secretary may assess an annual
8 fee on holders of fishing permits in the fishery for
9 which the buy-out program is established which may
10 not exceed 5 percent annually of the value of the
11 fish harvested under the fishing permit. Assessments
12 may not be used to pay any costs of administrative
13 overhead or other costs not directly incurred in car-
14 rying out the specific buy-out program under which
15 they are collected. Assessments shall be deposited in
16 the Ocean Conservation Trust fund established
17 under subsection (d) and shall be considered part of
18 the non-Federal share of the cost of a buyout pro-
19 gram.

20 “(5)(A) Upon completion of a proposal for a
21 buy-out program (including any fee system to be es-
22 tablished under this subsection), the Secretary shall
23 immediately—

24 “(i) submit the proposed program and reg-
25 ulations necessary for its implementation to the

1 appropriate Council for consideration and com-
2 ment; and

3 “(ii) publish in the Federal Register a no-
4 tice stating that the proposed program and reg-
5 ulations are available and that written data,
6 views, or comments of interested persons on the
7 proposed program and regulations may be sub-
8 mitted to the Secretary during the 60-day pe-
9 riod beginning on the date the notice is pub-
10 lished.

11 “(B) During the 60-day public comment pe-
12 riod—

13 “(i) the Secretary shall conduct a public
14 hearing in each State affected by the proposed
15 buy-out program; and

16 “(ii) the appropriate Council shall submit
17 its comments and recommendations, if any, re-
18 garding the proposed program and regulations.

19 “(C) Within 45 days after the close of the pub-
20 lic comment period, the Secretary, in consultation
21 with the affected Council, shall analyze the public
22 comment received and publish a final buy-out pro-
23 gram and regulations for its implementation. The
24 Secretary shall include an explanation of any sub-

1 stantive differences between the proposed and final
2 program and regulations.

3 “(c) **TASK FORCE.**—The Secretary shall establish a
4 task force to assist in the development of a sustainable
5 development strategy or a buy-out program under this sec-
6 tion. Such task force shall, at a minimum, consist of mem-
7 bers of the affected communities and individuals with ex-
8 pertise in fishery management and conservation, econom-
9 ies, and sociology. Members of the task force are author-
10 ized to receive per diem and travel expenses consistent
11 with section 302 of this Act.

12 “(d) **OCEAN CONSERVATION TRUST FUND.**—There is
13 established in the Treasury an Ocean Conservation Trust
14 Fund. The Fund shall be available, without appropriation
15 or fiscal year limitation, only to the Secretary for the pur-
16 pose of carrying out the provisions of this section subject
17 to the restrictions of this Act. This fund shall consist of
18 all monies deposited into it in accordance with this section
19 and section 308(h). Sums in the Fund that are not cur-
20 rently needed for the purpose of this section shall be kept
21 on deposit or invested in obligations of, or guaranteed by,
22 the United States.

23 **“SEC. 316. FISHERIES DISASTER RELIEF.**

24 “(a) **DETERMINATION OF FAILURE.**—At the discre-
25 tion of the Secretary or at the request of the Governor

1 of an affected State or a fishery dependent community;
 2 the Secretary shall determine whether there is a commer-
 3 cial fishery failure due to a fishery resource disaster as
 4 a result of—

5 “(1) natural causes;

6 “(2) man-made causes beyond the control of
 7 fishery managers to mitigate through conservation
 8 and management measures; or

9 “(3) undetermined causes.

10 “(b) ECONOMIC ASSISTANCE.—

11 “(1) Upon the determination under subsection
 12 (a) that there is a commercial fishery failure, the
 13 Secretary is authorized to make sums available to be
 14 used by the affected State, fishery dependent com-
 15 munity, or by the Secretary in cooperation with the
 16 affected State or fishery dependent community for—

17 “(A) assessing the economic and social ef-
 18 fects of the commercial fishery failure; and

19 “(B) any activity that the Secretary deter-
 20 mines is appropriate to restore the fishery or
 21 prevent a similar failure in the future and to
 22 assist a fishery dependent community affected
 23 by such failure.

24 “(2) Before making funds available for an ac-
 25 tivity authorized under this section, the Secretary

1 shall make a determination that such activity will
 2 not expand the size or scope of the commercial fish-
 3 ery failure into other fisheries or other geographic
 4 regions.

5 “(e) FEDERAL COST-SHARING.—The Federal share
 6 of the cost of any activity carried out under the authority
 7 of this section shall not exceed 75 percent of the cost of
 8 that activity.

9 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
 10 are authorized to be appropriated to the Secretary such
 11 sums as are necessary for each of the fiscal years 1995,
 12 1996, 1997, 1998 and 1999, provided that such sums are
 13 designated by Congress as an emergency requirement pur-
 14 suant to section 251(b)(2)(D)(i) of the Balanced Budget
 15 and Emergency Deficit Control Act of 1985.”.

16 (b) Section 2(b)(1)(A) of the Act of August 11, 1939
 17 (15 U.S.C. 713e-3(b)(1)(A)) is amended—

18 (1) by striking “and” at the end of clause (ii);

19 and

20 (2) by adding at the end the following new
 21 clause:

22 “(iii) to fund the Federal share of a
 23 buy-out program established under section
 24 315(b) of the Magnuson Fishery Conserva-
 25 tion and Management Act.”.

1 **TITLE II—FISHERY MONITORING**
 2 **AND RESEARCH**

3 **SEC. 201. CHANGE OF TITLE.**

4 The heading of title IV (16 U.S.C. 1881 et seq.) is
 5 amended to read as follows:

6 **“TITLE IV—FISHERY**
 7 **MONITORING AND RESEARCH”.**

8 **SEC. 202. REGISTRATION AND DATA MANAGEMENT.**

9 Title IV (16 U.S.C. 1881 et seq.) is amended by in-
 10 serting after the title heading the following:

11 **“SEC. 401. REGISTRATION AND DATA MANAGEMENT.**

12 **“(a) STANDARDIZED FISHING VESSEL REGISTRA-**
 13 **TION AND DATA MANAGEMENT SYSTEM.—**The Secretary
 14 shall, in cooperation with the Secretary of the department
 15 in which the Coast Guard is operating, the States, the
 16 Councils, and Marine Fisheries Commissions, develop rec-
 17 ommendations for implementation of a standardized fish-
 18 ing vessel registration and data management system on
 19 a regional basis. The proposed system shall be developed
 20 after consultation with interested governmental and non-
 21 governmental parties and shall—

22 **“(1)** be designed to standardize the require-
 23 ments of vessel registration and data collection sys-
 24 tems required by this Act, the Marine Mammal Pro-

1 tection Act (16 U.S.C. 1361 et seq.), and any other
2 marine resource law implemented by the Secretary;

3 “(2) integrate programs under existing fishery
4 management plans into a nonduplicative data collec-
5 tion and management system;

6 “(3) avoid duplication of existing state, tribal,
7 or federal systems (other than a federal system
8 under paragraph (1)) and utilize, to the maximum
9 extent practicable, information collected from exist-
10 ing systems;

11 “(4) provide for implementation through coop-
12 erative agreements with appropriate State, regional,
13 or tribal entities and Marine Fisheries Commissions;

14 “(5) establish standardized units of measure-
15 ment, nomenclature, and formats for the collection
16 and submission of information;

17 “(6) minimize the paperwork required for ves-
18 sels registered under the system;

19 “(7) include all species of fish within the geo-
20 graphic areas of authority of the Councils and all
21 fishing vessels, except for private recreational fishing
22 vessels used exclusively for pleasure; and

23 “(8) prescribe procedures necessary to ensure
24 the confidentiality of information collected under
25 this section.

1 “(b) FISHING VESSEL INFORMATION.—The registra-
 2 tion and data management system should, at a minimum,
 3 obtain the following information for each fishing vessel—

4 “(1) the name and official number or other
 5 identification, together with the name and address of
 6 the owner or operator or both;

7 “(2) vessel capacity, type and quantity of fish-
 8 ing gear, mode of operation (catcher, catcher proc-
 9 essor or other), and such other pertinent information
 10 with respect to vessel characteristics as the Sec-
 11 retary may require;

12 “(3) identification of the fisheries in which the
 13 fishing vessel participates;

14 “(4) estimated amounts of fish caught, and
 15 processed (if applicable) in each fishery; and

16 “(5) the geographic area of operations and the
 17 season or period during which the fishing vessel op-
 18 erates.

19 “(c) FISHERY INFORMATION.—The registration and
 20 data management system should, at a minimum, provide
 21 basic fisheries performance data for each fishery, includ-
 22 ing—

23 “(1) the number of vessels participating in the
 24 fishery;

1 ~~“(2) the time period in which the fishery oc-~~
 2 ~~urs;~~

3 ~~“(3) the approximate geographic location, or of-~~
 4 ~~ficial reporting area where the fishery occurs;~~

5 ~~“(4) a description of fishery gear used in the~~
 6 ~~fishery, including the amount of such gear and the~~
 7 ~~appropriate unit of fishery effort;~~

8 ~~“(5) catch and ex-vessel value of the catch for~~
 9 ~~each stock of fish in the fishery; and~~

10 ~~“(6) the amount and types of economic and~~
 11 ~~regulatory discards, and an estimate of any other~~
 12 ~~bycatch.~~

13 ~~“(d) PUBLIC COMMENT.—Within one year after the~~
 14 ~~date of enactment of the Sustainable Fisheries Act, the~~
 15 ~~Secretary shall publish in the Federal Register for a 60-~~
 16 ~~day public comment period, a proposal that would provide~~
 17 ~~for implementation of a standardized fishing vessel reg-~~
 18 ~~istration and data collection system that meets the re-~~
 19 ~~quirements of subsections (a) through (c). The proposal~~
 20 ~~shall include—~~

21 ~~“(1) a description of the arrangements for con-~~
 22 ~~sultation and cooperation with the department in~~
 23 ~~which the Coast Guard is operating, the States, the~~
 24 ~~Councils, Marine Fisheries Commissions, the fishing~~
 25 ~~industry and other interested parties; and~~

1 ~~“(2) proposed regulations and legislation nec-~~
 2 ~~essary to implement the proposal.~~

3 ~~“(e) CONGRESSIONAL TRANSMITTAL.—Within 60~~
 4 ~~days after the end of the comment period and after consid-~~
 5 ~~eration of comments received under subsection (d), the~~
 6 ~~Secretary shall transmit to the Committee on Commerce,~~
 7 ~~Science, and Transportation of the Senate and the Com-~~
 8 ~~mittee on Resources of the House of Representatives a~~
 9 ~~proposal for implementation of a national fishing vessel~~
 10 ~~registration system that includes—~~

11 ~~“(1) any modifications made after comment and~~
 12 ~~consultation;~~

13 ~~“(2) a proposed implementation schedule; and~~

14 ~~“(3) recommendations for any such additional~~
 15 ~~legislation as the Secretary considers necessary or~~
 16 ~~desirable to implement the proposed system.~~

17 ~~“(f) REPORT TO CONGRESS.—Within 15 months~~
 18 ~~after the date of enactment of the Sustainable Fisheries~~
 19 ~~Act, the Secretary shall report to Congress on the need~~
 20 ~~to include private recreational fishing vessels used exclu-~~
 21 ~~sively for pleasure into a national fishing vessel registra-~~
 22 ~~tion and data collection system. In preparing its report,~~
 23 ~~the Secretary shall cooperate with the Secretary of the de-~~
 24 ~~partment in which the Coast Guard is operating, the~~
 25 ~~States, the Councils, and Marine Fisheries Commissions,~~

1 and consult with governmental and nongovernmental par-
 2 ties.”.

3 **SEC. 203. DATA COLLECTION.**

4 Section 402 is amended to read as follows:

5 **“SEC. 402. DATA COLLECTION.**

6 “(a) ~~COUNCIL REQUESTS.~~—If a Council determines
 7 that additional information and data (other than informa-
 8 tion and data that would disclose proprietary or confiden-
 9 tial commercial or financial information regarding fishing
 10 operations or fish processing operations) would be bene-
 11 ficial for developing, implementing, or revising a fishery
 12 management plan or for determining whether a fishery is
 13 in need of management, the Council may request that the
 14 Secretary implement a data collection program for the
 15 fishery which would provide the types of information and
 16 data (other than information and data that would disclose
 17 proprietary or confidential commercial or financial infor-
 18 mation regarding fishing operations or fish processing op-
 19 erations) specified by the Council. The Secretary shall ap-
 20 prove such a data collection program if he determines that
 21 the need is justified, and shall promulgate regulations to
 22 implement the program within 60 days after such deter-
 23 mination is made. If the Secretary determines that the
 24 need for a data collection program is not justified, the Sec-
 25 retary shall inform the Council of the reasons for such

1 determination in writing. The determinations of the Sec-
 2 retary under this subsection regarding a Council request
 3 shall be made within a reasonable period of time after re-
 4 ceipt of that request.

5 “(b) CONFIDENTIALITY OF INFORMATION.—Any in-
 6 formation submitted to the Secretary by any person in
 7 compliance with any requirement under this Act shall be
 8 confidential and shall not be disclosed if disclosure would
 9 significantly impair the commercial interests of the person
 10 from whom the information was obtained, except—

11 “(1) to Federal employees and Council employ-
 12 ees who are responsible for fishery management plan
 13 development and monitoring;

14 “(2) to State or Marine Fisheries Commission
 15 employees pursuant to an agreement with the Sec-
 16 retary that prevents public disclosure of the identity
 17 or business of any person;

18 “(3) when required by court order;

19 “(4) when such information is used to verify
 20 catch under an individual transferable quota system;
 21 or

22 “(5) unless the Secretary has obtained written
 23 authorization from the person submitting such infor-
 24 mation to release such information and such release

1 does not violate other requirements of this sub-
 2 section.

3 The Secretary shall, by regulation, prescribe such proce-
 4 dures as may be necessary to preserve such confidentiality,
 5 except that the Secretary may release or make public any
 6 such information in any aggregate or summary form
 7 which does not directly or indirectly disclose the identity
 8 or business of any person who submits such information.
 9 Nothing in this subsection shall be interpreted or con-
 10 strued to prevent the use for conservation and manage-
 11 ment purposes by the Secretary, or with the approval of
 12 the Secretary, the Council, of any information submitted
 13 in compliance with regulations promulgated under this
 14 Act.

15 “(c) RESTRICTION ON USE OF CERTAIN DATA.—

16 “(1) The Secretary shall promulgate regulations
 17 to restrict the use, in civil enforcement or criminal
 18 proceedings under this Act, the Marine Mammal
 19 Protection Act of 1972 (16 U.S.C. 1361 et seq.); or
 20 the Endangered Species Act (16 U.S.C. 1531 et
 21 seq.); of information collected by voluntary fishery
 22 data collectors, including sea samplers, while aboard
 23 any vessel for conservation and management pur-
 24 poses if the presence of such a fishery data collector

1 aboard is not required by any of such Acts or regu-
2 lations thereunder.

3 ~~“(2) The Secretary may not require the submis-~~
4 ~~sion of a Federal or State income tax return or~~
5 ~~statement as a prerequisite for issuance of a Federal~~
6 ~~fishing permit until such time as the Secretary has~~
7 ~~promulgated regulations to ensure the confidentiality~~
8 ~~of information contained in such return or state-~~
9 ~~ment, to limit the information submitted to that nec-~~
10 ~~essary to achieve a demonstrated conservation and~~
11 ~~management purpose, and to provide appropriate~~
12 ~~penalties for violation of such regulations.”.~~

13 **SEC. 204. OBSERVERS.**

14 Title IV of the Act (16 U.S.C. 1882) is amended by
15 adding the following new section 403:

16 ~~“SEC. 403. OBSERVERS.~~

17 ~~“(a) GUIDELINES FOR CARRYING OBSERVERS.—~~
18 ~~Within one year of the date of enactment of the Sustain-~~
19 ~~able Fisheries Act, the Secretary shall promulgate regula-~~
20 ~~tions, after notice and public comment, for fishing vessels~~
21 ~~that are required to carry observers. The regulations shall~~
22 ~~include guidelines for determining—~~

23 ~~“(1) when a vessel is not required to carry an~~
24 ~~observer on board because the facilities of such ves-~~
25 ~~sel for the quartering of an observer, or for carrying~~

1 out observer functions, are so inadequate or unsafe
 2 that the health or safety of the observer or the safe
 3 operation of the vessel would be jeopardized; and

4 “(2) actions which vessel owners or operators
 5 may reasonably be asked to take to render such fa-
 6 cilities adequate and safe.

7 “(b) TRAINING.—The Secretary, in cooperation with
 8 State programs and the National Sea Grant College Pro-
 9 gram, shall—

10 “(1) establish programs to ensure that each ob-
 11 server receives adequate training in collecting and
 12 analyzing data necessary for the conservation and
 13 management purposes of the fishery to which such
 14 observer is assigned; and

15 “(2) require that an observer demonstrate com-
 16 petence in fisheries science and statistical analysis at
 17 a level sufficient to enable such person to fulfill the
 18 responsibilities of the position.

19 “(c) WAGES AS MARITIME LIENS.—Claims for ob-
 20 servers’ wages shall be considered maritime liens against
 21 the vessel and be accorded the same priority as seamen’s
 22 liens under admiralty and general maritime law.”

23 **SEC. 205. FISHERIES RESEARCH.**

24 Section 404 is amended to read as follows:

1 **~~“SEC. 404. FISHERIES RESEARCH.~~**

2 ~~“(a) IN GENERAL.—The Secretary shall initiate and~~
 3 ~~maintain, in cooperation with the Councils, a comprehen-~~
 4 ~~sive program of fishery research to carry out and further~~
 5 ~~the purposes, policy, and provisions of this Act. Such pro-~~
 6 ~~gram shall be designed to acquire knowledge and informa-~~
 7 ~~tion, including statistics, on fishery conservation and man-~~
 8 ~~agement and on the economics of the fisheries.~~

9 ~~“(b) STRATEGIC PLAN.—Within one year after the~~
 10 ~~date of enactment of the Sustainable Fisheries Act, and~~
 11 ~~at least every 3 years thereafter, the Secretary shall de-~~
 12 ~~velop and publish in the Federal Register a strategic plan~~
 13 ~~for fisheries research for the five years immediately follow-~~
 14 ~~ing such publication. The plan shall—~~

15 ~~“(1) identify and describe a comprehensive pro-~~
 16 ~~gram with a limited number of priority objectives for~~
 17 ~~research in each of the areas specified in subsection~~
 18 ~~(c);~~

19 ~~“(2) indicate the goals and timetables for the~~
 20 ~~program described in paragraph (1); and~~

21 ~~“(3) provide a role for commercial fishermen in~~
 22 ~~such research, including involvement in field testing.~~

23 ~~“(c) AREAS OF RESEARCH.—The areas of research~~
 24 ~~referred to in subsection (a) are as follows:~~

25 ~~“(1) Research to support fishery conservation~~
 26 ~~and management, including but not limited to, re-~~

1 search on the economics of fisheries and biological
2 research concerning the abundance and life history
3 parameters of stocks of fish; the interdependence of
4 fisheries or stocks of fish; the identification of essen-
5 tial fish habitat; the impact of pollution on fish pop-
6 ulations; the impact of wetland and estuarine deg-
7 radation; and other matters bearing upon the abun-
8 dance and availability of fish.

9 “(2) Conservation engineering research, includ-
10 ing the study of fish behavior and the development
11 and testing of new gear technology and fishing tech-
12 niques to minimize bycatch and any adverse effects
13 on essential fish habitat and promote efficient har-
14 vest of target species.

15 “(3) Information management research, includ-
16 ing the development of a fishery information base
17 and an information management system that will
18 permit the full use of data in the support of effective
19 fishery conservation and management.

20 “(d) PUBLIC NOTICE.—In developing the plan re-
21 quired under subsection (a), the Secretary shall consult
22 with relevant Federal, State, and international agencies;
23 scientific and technical experts; and other interested per-
24 sons, public and private, and shall publish a proposed plan
25 in the Federal Register for the purpose of receiving public

1 comment on the plan. The Secretary shall ensure that af-
 2 fected commercial fishermen are actively involved in the
 3 development of the portion of the plan pertaining to con-
 4 servation engineering research. Upon final publication in
 5 the Federal Register, the plan shall be submitted by the
 6 Secretary to the Committee on Commerce, Science, and
 7 Transportation of the Senate and the Committee on Re-
 8 sources of the House of Representatives.”.

9 **SEC. 206. INCIDENTAL HARVEST RESEARCH.**

10 Section 405 is amended to read as follows:

11 **“SEC. 405. INCIDENTAL HARVEST RESEARCH.**

12 “(a) COLLECTION OF DATA.—Within 9 months after
 13 the date of enactment of the Sustainable Fisheries Act,
 14 the Secretary shall, after consultation with the Gulf of
 15 Mexico Fishery Management Council and South Atlantic
 16 Fishery Management Council, conclude the collection of
 17 data in the program to assess the impact on fishery re-
 18 sources of incidental harvest by the shrimp trawl fishery
 19 within the authority of such Councils. Within the same
 20 time period, the Secretary shall make available to the pub-
 21 lic aggregated summaries of data collected prior to June
 22 30, 1994 under such program.

23 “(b) IDENTIFICATION OF STOCK.—The program con-
 24 cluded pursuant to subsection (a) shall provide for the
 25 identification of stocks of fish which are subject to signifi-

1 cant incidental harvest in the course of normal shrimp
2 trawl fishing activity.

3 “(c) COLLECTION AND ASSESSMENT OF SPECIFIC
4 STOCK DATA.—For stocks of fish identified pursuant to
5 subsection (b), with priority given to stocks which (based
6 upon the best available scientific information) are consid-
7 ered to be overfished, the Secretary shall conduct—

8 “(1) a program to collect and evaluate data on
9 the nature and extent (including the spatial and
10 temporal distribution) of incidental mortality of such
11 stocks as a direct result of shrimp trawl fishing ac-
12 tivities;

13 “(2) an assessment of the status and condition
14 of such stocks, including collection of information
15 which would allow the estimation of life history pa-
16 rameters with sufficient accuracy and precision to
17 support sound scientific evaluation of the effects of
18 various management alternatives on the status of
19 such stocks; and

20 “(3) a program of data collection and evalua-
21 tion for such stocks on the magnitude and distribu-
22 tion of fishing mortality and fishing effort by
23 sources of fishing mortality other than shrimp trawl
24 fishing activity.

1 “(d) INCIDENTAL MORTALITY REDUCTION PRO-
 2 GRAM.—The Secretary shall, in cooperation with affected
 3 interests, commence a program to design and evaluate the
 4 efficacy of technological devices and other changes in fish-
 5 ing technology for the reduction of incidental mortality of
 6 nontarget fishery resources in the course of shrimp trawl
 7 fishing activity which are designed to be inexpensive to
 8 operate and which cause insignificant loss of shrimp. Such
 9 program shall take into account local conditions and in-
 10 clude evaluation of any reduction in incidental mortality,
 11 as well as any reduction or increase in the retention of
 12 shrimp in the course of normal fishing activity.

13 “(e) REPORT TO THE CONGRESS.—The Secretary
 14 shall, within one year of completing the programs required
 15 by this subsection, submit a detailed report on the results
 16 of such programs to the Committee on Commerce,
 17 Science, and Transportation of the Senate and the Com-
 18 mittee on Resources of the House of Representatives.

19 “(f) IMPLEMENTATION CRITERIA.—Any measure im-
 20 plemented under this Act to reduce the incidental mortal-
 21 ity of nontarget fishery resources in the course of shrimp
 22 trawl fishing shall, to the extent practicable—

23 “(1) apply to such fishing throughout the range
 24 of the nontarget fishery resource concerned; and

1 “(2) be implemented first in those areas and at
2 those times where the greatest reduction of such in-
3 cidental mortality can be achieved.”.

4 **SEC. 207. REPEAL.**

5 Section 406 (16 U.S.C. 1882) is repealed.

6 **SEC. 208. CLERICAL AMENDMENTS.**

7 The table of contents is amended by striking the mat-
8 ter relating to title IV and inserting the following:

“Sec. 315: Transition to sustainable fisheries.

“Sec. 316: Fisheries disaster relief.

“TITLE IV—FISHERY MONITORING AND RESEARCH

“Sec. 401: Registration.

“Sec. 402: Data collection.

“Sec. 403: Observers.

“Sec. 404: Fisheries research.

“Sec. 405: Incidental harvest research.”.

9 **TITLE III—FISHERIES STOCK**
10 **RECOVERY FINANCING**

11 **SEC. 301. SHORT TITLE.**

12 This title may be cited as the “Fisheries Stock Recov-
13 ery Financing Act”.

14 **SEC. 302. FISHERIES STOCK RECOVERY REFINANCING.**

15 Title XI of the Merchant Marine Act, 1936 (46
16 U.S.C. 1271 et seq.), is amended by adding at the end
17 the following new section:

18 “Sec. 1111. (a) Pursuant to the authority granted
19 under section 1103(a) of this title, the Secretary shall,
20 under such terms and conditions as the Secretary shall
21 prescribe by regulation, guarantee and make commitments

1 to guarantee the principal of, and interest on, obligations
 2 which aid in refinancing, in a manner consistent with the
 3 reduced cash flows available to obligors because of reduced
 4 harvesting allocations during implementation of a fishery
 5 recovery effort, existing obligations relating to fishing ves-
 6 sels or fishery facilities. Guarantees under this section
 7 shall be subject to all other provisions of this title not in-
 8 consistent with the provisions of this section. The provi-
 9 sions of this section shall, notwithstanding any other pro-
 10 visions of this title, apply to guarantees under this section.

11 “(b) Obligations eligible to be refinanced under this
 12 section shall include all obligations which financed or refi-
 13 nanced any expenditures associated with the ownership or
 14 operation of fishing vessels or fishery facilities, including
 15 but not limited to expenditures for reconstructing, recon-
 16 ditioning, purchasing, equipping, maintaining, repairing,
 17 supplying, or any other aspect whatsoever of operating
 18 fishing vessels or fishery facilities, excluding only such
 19 obligations—

20 “(1) which were not in existence prior to the
 21 time the Secretary approved a fishery recovery effort
 22 eligible for guarantees under this section and whose
 23 purpose, in whole or in part, involved expenditures
 24 which resulted in increased vessel harvesting capaci-
 25 ty; and

1 ~~“(2) as may be owed by an obligor either to any~~
 2 ~~stockholder, partner, guarantor, or other principal of~~
 3 ~~such obligor or to any unrelated party if the purpose~~
 4 ~~of such obligation had been to pay an obligor’s pre-~~
 5 ~~existing obligation to such stockholder, partner,~~
 6 ~~guarantor, or other principal of such obligor.~~

7 ~~“(c) The Secretary shall refinance up to 100 percent~~
 8 ~~of the principal of, and interest on, such obligations, but,~~
 9 ~~in no event, shall the Secretary refinance an amount ex-~~
 10 ~~ceeding 75 percent of the unencumbered (after deducting~~
 11 ~~the amount to be refinanced by guaranteed obligations~~
 12 ~~under this section) market value, as determined by an~~
 13 ~~independent marine surveyor, of the fishing vessel or fish-~~
 14 ~~ery facility to which such obligations relate plus 75 percent~~
 15 ~~of the unencumbered (including but not limited to home-~~
 16 ~~stead exemptions) market value, as determined by an inde-~~
 17 ~~pendent marine surveyor, of all other supplementary col-~~
 18 ~~lateral. The Secretary shall do so regardless of—~~

19 ~~“(1) any fishing vessel or fishery facility’s ac-~~
 20 ~~tual cost or depreciated actual cost; and~~

21 ~~“(2) any limitations elsewhere in this title on~~
 22 ~~the amount of obligations to be guaranteed or such~~
 23 ~~amount’s relationship to actual cost or depreciated~~
 24 ~~actual cost.~~

1 “(d) Obligations guaranteed under this section shall
 2 have such maturity dates and other provisions as are con-
 3 sistent with the intent and purpose of this section (includ-
 4 ing but not limited to provisions for obligors to pay only
 5 the interest accruing on the principal of such obligations
 6 during the period in which fisheries stocks are recovering;
 7 with the principal and interest accruing thereon being
 8 fully amortized between the date stock recovery is pro-
 9 jected to be completed and the maturity date of such obli-
 10 gations).

11 “(e) No provision of section 1104A(d) of this title
 12 shall apply to obligations guaranteed under this section.

13 “(f) The Secretary shall neither make commitments
 14 to guarantee nor guarantee obligations under this section
 15 unless—

16 “(1) the Secretary has first approved the fish-
 17 ery recovery effort, for the fishery in which vessels
 18 eligible for the guarantee of obligations under this
 19 section are participants; and

20 “(2) the Secretary has considered such factors
 21 as—

22 “(A) the projected degree and duration of
 23 reduced fisheries allocations;

24 “(B) the projected reduction in fishing ves-
 25 sel and fishery facility cash flows;

1 “(C) the projected severity of the impact
2 on fishing vessels and fishery facilities;

3 “(D) the projected effect of the fishery re-
4 covery effort;

5 “(E) the provisions of any related fishery
6 management plan under the Magnuson Fishery
7 Conservation and Management Act (16 U.S.C.
8 1801 et seq.); and

9 “(F) the need for and advisability of guar-
10 antees under this section;

11 “(3) the Secretary finds that the obligation to
12 be guaranteed will, considering the projected effect
13 of the fishery recovery effort involved and all other
14 aspects of the obligor, project, property, collateral,
15 and any other aspects whatsoever of the obligation
16 involved, constitute, in the Secretary’s opinion, a
17 reasonable prospect of full repayment; and

18 “(4) the obligors agree to provide such security
19 and meet such other terms and conditions as the
20 Secretary may, pursuant to regulations prescribed
21 under this section, require to protect the interest of
22 the United States and carry out the purpose of this
23 section.

24 “(g) All obligations guaranteed under this section
25 shall be accounted for separately, in a subaccount of the

1 Federal Ship Financing Fund to be known as the Fishery
 2 Recovery Refinancing Account, from all other obligations
 3 guaranteed under the other provisions of this title and the
 4 assets and liabilities of the Federal Ship Financing Fund
 5 and the Fishery Recovery Refinancing Account shall be
 6 segregated accordingly.

7 “(h) For the purposes of this section, the term ‘fish-
 8 ery recovery effort’ means a fishery management plan,
 9 amendment, or regulations required under section 305(b)
 10 of the Magnuson Fishery Conservation and Management
 11 Act (16 U.S.C. 1854(b)) to rebuild a fishery which the
 12 Secretary has determined to be a commercial fishery fail-
 13 ure under section 316 of such Act.”

14 **SEC. 303. FEDERAL FINANCING BANK RELATING TO FISH-**
 15 **ING VESSELS AND FISHERY FACILITIES.**

16 Section 1104A(b)(2) of the Merchant Marine Act,
 17 1936 (46 U.S.C. 1274(b)(2)), is amended by striking
 18 “*Provided, further,* That in the case of a fishing vessel or
 19 fishery facility, the obligation shall be in an aggregate
 20 principal amount equal to 80 percent of the actual cost
 21 or depreciated actual cost of the fishing vessel or fishery
 22 facility, except that no debt may be placed under this pro-
 23 viso through the Federal Financing Bank:” and inserting
 24 the following: “*Provided, further,* That in the case of a
 25 fishing vessel or fishery facility, the obligation shall be in

1 an aggregate principal amount not to exceed 80 percent
 2 of the actual cost or depreciated actual cost of the fishing
 3 vessel or fishery facility, and obligations related to fishing
 4 vessels and fishery facilities under this title shall be placed
 5 through the Federal Financing Bank unless placement
 6 through the Federal Financing Bank is not reasonably
 7 available or placement elsewhere is available at a lower
 8 annual effective yield than placement through the Federal
 9 Financing Bank.”.

10 **SEC. 304. FEES FOR GUARANTEEING OBLIGATIONS.**

11 Section 1104A(e) of the Merchant Marine Act, 1936
 12 (46 U.S.C. 1274(e)), is amended to read as follows:

13 “(e)(1) The Secretary is authorized to fix a fee for
 14 the guarantee of obligations under this title. Obligors shall
 15 pay all such fees to the Secretary when moneys are first
 16 advanced under guaranteed obligations and at least 60
 17 days prior to each anniversary date thereafter. All such
 18 fees shall be computed and shall be payable to the Sec-
 19 retary under such regulations as the Secretary may pre-
 20 scribe.

21 “(2) For fishing vessels and fishery facilities, such
 22 fee shall—

23 “(A) if the obligation will not be purchased by
 24 the Federal Financing Bank, be in an amount equal
 25 to 1 percent per year of the average principal

1 amount of the obligation outstanding (unless such
 2 obligation is issued under section 1111 of this title;
 3 in which case such fee shall be 1 and one-half per-
 4 cent per year of such average principal amount; and

5 “(B) if the obligation will be purchased by the
 6 Federal Financing Bank, be in an amount equal to
 7 2 percent per year of the average principal amount
 8 of the obligation outstanding (unless such obligation
 9 is issued under section 1111 of this title, in which
 10 case such fee shall be 2 and one-half percent per
 11 year of such average principal amount), less any fee
 12 the Federal Financing Bank customarily charges for
 13 its services with respect to federally guaranteed obli-
 14 gations purchased by it and less the amount, if any,
 15 by which the interest rate on such obligation (which
 16 shall be fixed at the time the Federal Financing
 17 Bank commits to purchase such obligation) exceeds
 18 the current new issue rate on outstanding market-
 19 able obligations of the United States of comparable
 20 maturity.

21 “(3) For everything other than fishing vessels and
 22 fishery facilities, such fee shall—

23 “(A) if the security for the guarantee of an ob-
 24 ligation under this title relates to a delivered vessel,
 25 not be less than one-half of 1 percent per year nor

1 more than 1 percent per year of the average prin-
2 cipal amount of such obligation outstanding, exclud-
3 ing the average amount (except interest) on deposit
4 in an escrow fund created under section 1108 of this
5 title; and

6 “(B) if the security for the guarantee of an ob-
7 ligation under this title relates to a vessel to be con-
8 structed, reconstructed, or reconditioned, not be less
9 than one-quarter of 1 percent per year nor more
10 than one-half of 1 percent per year of the average
11 principal amount of such obligation outstanding, ex-
12 cluding the average amount (except interest) on de-
13 posit in an escrow fund created under section 1108
14 of this title. For the purposes of this subsection, if
15 the security for the guarantee of an obligation under
16 this title relates both to a delivered vessel or vessels
17 and to a vessel or vessels to be constructed, recon-
18 structed, or reconditioned, the principal amount of
19 such obligation shall be prorated in accordance with
20 regulations prescribed by the Secretary. The regula-
21 tions to be prescribed by the Secretary under this
22 subsection shall provide a formula for determining
23 the creditworthiness of obligors under which the
24 most creditworthy obligors pay a fee computed on
25 the lowest allowable percentage and the least credit-

1 worthy obligors pay a fee which may be computed on
 2 the highest allowable percentage (the range of cred-
 3 itworthiness to be based on obligors which have ac-
 4 tually issued guaranteed obligations).”.

5 **~~SEC. 305. SALE OF ACQUIRED COLLATERAL.~~**

6 Section ~~1104A(a)(3)~~ of the Merchant Marine Act,
 7 1936 (46 U.S.C. ~~1274(a)(3)~~), is amended by inserting
 8 after “financing” the following: “(without requiring sub-
 9 sidy cost ceiling or other authorization under the Federal
 10 Credit Reform Act of 1990)”.

11 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

12 (a) *SHORT TITLE.*—*This Act may be cited as the “Sus-*
 13 *tainable Fisheries Act”.*

14 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 15 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Amendment of the Magnuson Fishery Conservation and Management Act.

Sec. 102. Findings; purposes; policy.

Sec. 103. Definitions.

Sec. 104. Authorization of appropriations.

Sec. 105. Highly migratory species.

Sec. 106. Foreign fishing and international fishery agreements.

Sec. 107. National standards.

Sec. 108. Regional Fishery Management Councils.

Sec. 109. Fishery management plans.

Sec. 110. Action by the Secretary.

Sec. 111. Other requirements and authority.

Sec. 112. Pacific community fisheries.

Sec. 113. State jurisdiction.

Sec. 114. Prohibited acts.

Sec. 115. Civil penalties and permit sanctions; rebuttable presumptions

Sec. 116. Enforcement.

Sec. 117. North Pacific and Northwest Atlantic Ocean Fisheries.

Sec. 118. Transition to sustainable fisheries.

TITLE II—FISHERY MONITORING AND RESEARCH

Sec. 201. Change of title.

Sec. 202. Registration and data management.

Sec. 203. Data collection.

Sec. 204. Observers.

Sec. 205. Fisheries research.

Sec. 206. Incidental harvest research.

Sec. 207. Miscellaneous research.

Sec. 208. Study of contribution of bycatch to charitable organizations.

Sec. 209. Study of identification methods for harvest stocks.

Sec. 210. Clerical amendments.

TITLE III—FISHERIES FINANCING

Sec. 301. Short title.

Sec. 302. Fisheries financing and capacity reduction.

Sec. 303. Fisheries loan guarantee reform.

TITLE IV—MARINE FISHERY STATUTE REAUTHORIZATIONS

Sec. 401. Marine fish program authorization of appropriations.

Sec. 402. Interjurisdictional Fisheries Act amendments.

Sec. 403. Anadromous fisheries amendments.

Sec. 404. Atlantic Coastal Cooperative Management Act amendments.

Sec. 405. Technical amendments to Maritime Boundary Agreement.

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 102. FINDINGS; PURPOSES; POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

1 “(2) *Certain stocks of fish have declined to the*
 2 *point where their survival is threatened, and other*
 3 *stocks of fish have been so substantially reduced in*
 4 *number that they could become similarly threatened*
 5 *as a consequence of (A) increased fishing pressure,*
 6 *(B) the inadequacy of fishery resource conservation*
 7 *and management practices and controls, or (C) direct*
 8 *and indirect habitat losses which have resulted in a*
 9 *diminished capacity to support existing fishing lev-*
 10 *els.”;*

11 (2) by inserting “to facilitate long-term protec-
 12 tion of essential fish habitats,” in subsection (a)(6)
 13 after “conservation,”;

14 (3) by adding at the end of subsection (a) the fol-
 15 lowing:

16 “(9) *One of the greatest long-term threats to the*
 17 *viability of commercial and recreational fisheries is*
 18 *the continuing loss of marine, estuarine, and other*
 19 *aquatic habitats. Habitat considerations should re-*
 20 *ceive increased attention for the conservation and*
 21 *management of fishery resources of the United States.*

22 “(10) *Pacific Insular Areas contain unique his-*
 23 *torical, cultural, legal, political, and geographical cir-*
 24 *cumstances which make fisheries resources important*
 25 *in sustaining their economic growth.”;*

1 (4) by striking “and” after the semicolon at the
2 end of subsection (b)(5);

3 (5) by striking “development.” in subsection
4 (b)(6) and inserting “development in a non-wasteful
5 manner; and”;

6 (6) by adding at the end of subsection (b) the fol-
7 lowing:

8 “(7) to promote the protection of essential fish
9 habitat in the review of projects conducted under Fed-
10 eral permits, licenses, or other authorities that affect
11 or have the potential to affect such habitat.”;

12 (7) by inserting “minimize bycatch and” after
13 “practical measures that” in subsection (c)(3);

14 (8) striking “and” at the end of paragraph
15 (c)(5);

16 (9) striking the period at the end of paragraph
17 (c)(6) and inserting “; and”; and

18 (10) adding at the end a new paragraph as fol-
19 lows:

20 “(7) to ensure that the fishery resources adjacent
21 to a Pacific Insular Area, including resident or mi-
22 gratory stocks within the exclusive economic zone ad-
23 jacent to such areas, be explored, developed, conserved,
24 and managed for the benefit of the people of such area
25 and of the United States.”.

1 **SEC. 103. DEFINITIONS.**

2 *Section 3 (16 U.S.C. 1802) is amended—*

3 *(1) by redesignating paragraphs (2) through (32)*
 4 *as paragraphs (4) through (34), respectively, and in-*
 5 *serting after paragraph (1) the following:*

6 *“(2) The term ‘bycatch’ means fish which are*
 7 *harvested by a fishing vessel, but which are not sold*
 8 *or kept for personal use, and includes economic dis-*
 9 *cards and regulatory discards but does not include*
 10 *fish caught and released alive that are the target spe-*
 11 *cies of recreational fishing under catch and release*
 12 *programs.*

13 *“(3) The term ‘commercial fishing’ means fishing*
 14 *in which the fish harvested, either in whole or in*
 15 *part, enter commerce through sale, barter or trade.”;*

16 *(2) in paragraph (6) (as redesignated)—*

17 *(A) by striking “COELENTERATA” from*
 18 *the heading of the list of corals and inserting*
 19 *“CNIDARIA”; and*

20 *(B) in the list appearing under the heading*
 21 *“CRUSTACEA”, by striking “Deep-sea Red*
 22 *Crab—Geryon quinquedens” and inserting*
 23 *“Deep-sea Red Crab—Chaceon quinquedens”;*

24 *(3) by redesignating paragraphs (8) through (34)*
 25 *(as redesignated) as paragraphs (10) through (36), re-*

1 *spectively, and inserting after paragraph (7) (as re-*
 2 *designated) the following:*

3 “(8) *The term ‘economic discards’ means fish*
 4 *which are the target of a fishery, but which are not*
 5 *retained by a fishing vessel because they are of an un-*
 6 *desirable size, sex, or quality, or for other economic*
 7 *reasons.”*

8 “(9) *The term ‘essential fish habitat’ means those*
 9 *waters and substrate necessary to fish for spawning,*
 10 *breeding, feeding or growth to maturity.”;*

11 (4) *by redesignating paragraphs (15) through*
 12 *(36) (as redesignated) as paragraphs (16) through*
 13 *(37), respectively, and inserting after paragraph (14)*
 14 *(as redesignated) the following:*

15 “(15) *The term ‘fishing community’ means a*
 16 *community which is substantially dependent on the*
 17 *harvest of fishery resources to meet social and eco-*
 18 *nomic needs, and includes fishing vessel owners, oper-*
 19 *ators and crew and United States fish processors that*
 20 *are based in such community.”;*

21 (5) *by redesignating paragraphs (20) through*
 22 *(37) (as redesignated) as paragraphs (21) through*
 23 *(38), respectively, and inserting after paragraph (19)*
 24 *(as redesignated) the following:*

1 “(20) The term ‘individual fishing quota’ means
 2 a revocable Federal permit under a limited access sys-
 3 tem to harvest a quantity of fish that is expressed by
 4 a unit or units representing a percentage of the total
 5 allowable catch of a fishery that may be received or
 6 held for exclusive use by a person.”;

7 (6) by striking “of one and one-half miles” in
 8 paragraph (22) (as redesignated) and inserting “of
 9 two and one-half kilometers”;

10 (7) by striking paragraph (27), as redesignated,
 11 and inserting the following:

12 “(27) The term ‘optimum’, with respect to the
 13 yield from a fishery, means the amount of fish
 14 which—

15 “(A) will provide the greatest overall benefit
 16 to the Nation, particularly with respect to food
 17 production and recreational opportunities, and
 18 taking into account the protection of marine
 19 ecosystems;

20 “(B) is prescribed on the basis of the maxi-
 21 mum sustainable yield from the fishery, as re-
 22 duced by any relevant social, economic, or eco-
 23 logical factor; and

24 “(C) in the case of an overfished fishery,
 25 provides for rebuilding to a level consistent with

1 *producing the maximum sustainable yield in*
 2 *such fishery.”;*

3 *(8) by redesignating paragraphs (28) through*
 4 *(38) (as redesignated) as paragraphs (30) through*
 5 *(40), respectively, and inserting after paragraph (27)*
 6 *(as redesignated) the following:*

7 *“(28) The terms ‘overfishing’ and ‘overfished’*
 8 *mean a rate or level of fishing mortality that jeopard-*
 9 *izes the capacity of a fishery to produce the maximum*
 10 *sustainable yield on a continuing basis.”;*

11 *“(29) The term “Pacific Insular Area” means*
 12 *American Samoa, Guam, the Northern Mariana Is-*
 13 *lands, Baker Island, Howland Island, Jarvis Island,*
 14 *Johnston Atoll, Kingman Reef, Midway Island, Wake*
 15 *Island, or Palmyra Atoll, as applicable, and includes*
 16 *all islands and reefs appurtenant to such island, reef,*
 17 *or atoll.*

18 *(9) by redesignating paragraphs (31) through*
 19 *(40) (as redesignated) as paragraphs (33) through*
 20 *(42), respectively, and inserting after paragraph (30)*
 21 *(as redesignated) the following:*

22 *“(31) The term ‘recreational fishing’ means fish-*
 23 *ing for sport or pleasure.*

24 *“(32) The term ‘regulatory discards’ means fish*
 25 *caught in a fishery which fishermen are required by*

1 regulation to discard whenever caught, or are re-
2 quired by regulation to retain but not sell.”;

3 (10) by redesignating paragraphs (34) through
4 (42) (as redesignated) as paragraphs (35) through
5 (43), respectively, and inserting after paragraph (33)
6 (as redesignated) the following:

7 “(34) The term ‘special areas’ means the areas
8 referred to as eastern special areas in Article 3(1) of
9 the Agreement between the United States of America
10 and the Union of Soviet Socialist Republics on the
11 Maritime Boundary, signed June 1, 1990; in particu-
12 lar, the term refers to those areas east of the maritime
13 boundary, as defined in that Agreement, that lie with-
14 in 200 nautical miles of the baselines from which the
15 breadth of the territorial sea of Russia is measured
16 but beyond 200 nautical miles of the baselines from
17 which the breadth of the territorial sea of the United
18 States is measured.”;

19 (11) by striking “for which a fishery manage-
20 ment plan prepared under title III or a preliminary
21 fishery management plan prepared under section
22 201(h) has been implemented” in paragraph (42) (as
23 redesignated) and inserting “regulated under this
24 Act”;

1 (12) by redesignating paragraph (43), as redes-
 2 ignated, as paragraph (44), and inserting after para-
 3 graph (42) the following:

4 “(43) The term ‘vessel subject to the jurisdiction
 5 of the United States’ has the same meaning such term
 6 has in section 3(c) of the Maritime Drug Law En-
 7 forcement Act (46 U.S.C. App. 1903(c)).”; and

8 (13) by redesignating paragraph (33) as para-
 9 graph (45).

10 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

11 *The Act is amended by inserting after section 3 (16*
 12 *U.S.C. 1802) the following:*

13 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

14 *“There are authorized to be appropriated to the Sec-*
 15 *retary for the purposes of carrying out the provisions of*
 16 *this Act, not to exceed the following sums (of which not less*
 17 *than 10 percent in each fiscal year shall be used for enforce-*
 18 *ment activities):*

19 “(1) \$147,000,000 for fiscal year 1996;

20 “(2) \$151,000,000 for fiscal year 1997;

21 “(3) \$155,000,000 for fiscal year 1998;

22 “(4) \$159,000,000 for fiscal year 1999; and

23 “(5) \$163,000,000 for fiscal year 2000.”.

1 **SEC. 105. HIGHLY MIGRATORY SPECIES.**

2 Section 102 (16 U.S.C. 1812) is amended by striking
3 “promoting the objective of optimum utilization” and in-
4 serting “shall promote the achievement of optimum yield”.

5 **SEC. 106. FOREIGN FISHING AND INTERNATIONAL FISHERY**
6 **AGREEMENTS.**

7 (a) *AUTHORITY TO OPERATE UNDER TRANSSHIPMENT*
8 *PERMITS.*—Section 201(a)(1) (16 U.S.C. 1821(a)(1)) is
9 amended to read as follows:

10 “(1) is authorized under subsections (b) or (c) or
11 section 204(e), under a permit issued under section
12 204(d);”.

13 (b) *INTERNATIONAL FISHERY AGREEMENTS.*—Section
14 202 (16 U.S.C. 1822) is amended—

15 (1) by adding at the end of subsection (c) “or
16 section 204(e);”;

17 (2) by adding at the end the following:

18 “(h) *BYCATCH REDUCTION AGREEMENTS.*—(1) The
19 Secretary of State, in cooperation with the Secretary, shall
20 seek to secure an international agreement to establish stand-
21 ards and measures for bycatch reduction that are com-
22 parable to the standards and measures applicable to United
23 States fishermen for such purposes in any fishery regulated
24 pursuant to this Act for which the Secretary, in consulta-
25 tion with the Secretary of State, determines that such an
26 international agreement is necessary and appropriate.

1 “(2) *An international agreement negotiated under this*
 2 *subsection shall be—*

3 “(A) *consistent with the policies and purposes of*
 4 *this Act; and*

5 “(B) *approved by Congress in the manner estab-*
 6 *lished in section 203 for approval of a governing*
 7 *international fishery agreement.*

8 “(3) *Not later than January 1, 1997, and annually*
 9 *thereafter, the Secretary, in consultation with the Secretary*
 10 *of State, shall submit to the Committee on Commerce,*
 11 *Science, and Transportation of the Senate and the Commit-*
 12 *tee on Resources of the House of Representatives a report*
 13 *describing actions taken under this subsection and section*
 14 *205(a)(5).”.*

15 (c) *PERIOD FOR CONGRESSIONAL REVIEW OF GOVERN-*
 16 *ING INTERNATIONAL FISHERY AGREEMENTS.—Section 203*
 17 *(16 U.S.C. 1823) is amended—*

18 (1) *in subsection (a) by striking “60 calendar*
 19 *days of continuous session of the Congress” and in-*
 20 *serting “120 days (excluding any days in a period for*
 21 *which the Congress is adjourned sine die)”;*

22 (2) *by striking subsection (c); and*

23 (3) *by redesignating subsection (d) as subsection*
 24 (c).

1 (d) *TRANSSHIPMENT PERMITS AND PACIFIC INSULAR*
 2 *AREA FISHING.*—Section 204 (16 U.S.C. 1824) is amended
 3 by adding at the end the following:

4 “(d) *TRANSSHIPMENT PERMITS.*—

5 “(1) *AUTHORITY TO ISSUE PERMITS.*—The Sec-
 6 retary may issue a transshipment permit under this
 7 subsection which authorizes a vessel other than a ves-
 8 sel of the United States to engage in fishing consisting
 9 solely of transporting fish products at sea from a
 10 point within the boundaries of any State or the exclu-
 11 sive economic zone to a point outside the United
 12 States to any person who—

13 “(A) submits an application which is ap-
 14 proved by the Secretary under paragraph (3);
 15 and

16 “(B) pays a fee imposed under paragraph
 17 (7).

18 “(2) *TRANSMITTAL.*—Upon receipt of an appli-
 19 cation for a permit under this subsection, the Sec-
 20 retary shall promptly transmit copies of the applica-
 21 tion to the Secretary of the department in which the
 22 Coast Guard is operating, any appropriate Council,
 23 and any interested State.

24 “(3) *APPROVAL OF APPLICATION.*—The Secretary
 25 may approve, with the concurrence of the appropriate

1 *Council, an application for a permit under this sec-*
2 *tion if the Secretary determines that—*

3 *“(A) the transportation of fish products to*
4 *be conducted under the permit, as described in*
5 *the application, will be in the interest of the*
6 *United States and will meet the applicable re-*
7 *quirements of this Act;*

8 *“(B) the applicant will comply with the re-*
9 *quirements described in section 201(c)(2) with*
10 *respect to activities authorized by any permit is-*
11 *sued pursuant to the application;*

12 *“(C) the applicant has established any*
13 *bonds or financial assurances that may be re-*
14 *quired by the Secretary; and*

15 *“(D) no owner or operator of a vessel of the*
16 *United States which has adequate capacity to*
17 *perform the transportation for which the appli-*
18 *cation is submitted has indicated to the Sec-*
19 *retary an interest in performing the transpor-*
20 *tation at fair and reasonable rates.*

21 *“(4) WHOLE OR PARTIAL APPROVAL.—The Sec-*
22 *retary may approve all or any portion of an applica-*
23 *tion under paragraph (3).*

24 *“(5) FAILURE TO APPROVE APPLICATION.—If the*
25 *Secretary does not approve any portion of an appli-*

1 *cation submitted under paragraph (1), the Secretary*
 2 *shall promptly inform the applicant and specify the*
 3 *reasons therefore.*

4 “(6) *CONDITIONS AND RESTRICTIONS.*—*The Sec-*
 5 *retary shall establish and include in each permit*
 6 *under this subsection conditions and restrictions*
 7 *which shall be complied with by the owner and opera-*
 8 *tor of the vessel for which the permit is issued. The*
 9 *conditions and restrictions shall include the require-*
 10 *ments, regulations, and restrictions set forth in sub-*
 11 *section (b)(7).*

12 “(7) *FEEES.*—*The Secretary shall collect a fee for*
 13 *each permit issued under this subsection, in an*
 14 *amount adequate to recover the costs incurred by the*
 15 *United States in issuing the permit.*

16 “(e) *PACIFIC INSULAR AREAS.*—

17 “(1) *At the request of and with the concurrence*
 18 *of the Governor of the applicable Pacific Insular*
 19 *Area, the Secretary of State in concurrence with the*
 20 *Secretary of Commerce, and the Western Pacific*
 21 *Council, may negotiate and enter into a Pacific Insu-*
 22 *lar Area Fishery Agreement (hereinafter in this sub-*
 23 *section referred to as a ‘Pacific Fishery Agreement’)*
 24 *to authorize foreign fishing within the exclusive eco-*
 25 *nomie zone adjacent to such Pacific Insular Area.*

1 “(2) *In the case of a Pacific Insular Area other*
2 *than American Samoa, Guam, or the Northern Mari-*
3 *ana Islands, the Secretary of State, with the concur-*
4 *rence of the Secretary of Commerce and the Western*
5 *Pacific Council, may negotiate and enter into a Pa-*
6 *cific Fishery Agreement to authorize foreign fishing*
7 *within the exclusive economic zone adjacent to such*
8 *an area.*

9 “(3) *In the case of American Samoa, Guam, or*
10 *the Northern Mariana Islands, the Secretary of State*
11 *shall not negotiate a Pacific Fishery Agreement to au-*
12 *thorize foreign fishing within the exclusive economic*
13 *zone adjacent to such a Pacific Insular Area without*
14 *consultation with and the concurrence of the Governor*
15 *of the applicable Pacific Insular Area.*

16 “(4) *A Pacific Fishery Agreement shall not be*
17 *considered to supersede any governing international*
18 *fishery agreement currently in effect under this Act,*
19 *but shall provide an alternative basis for the conduct*
20 *of foreign fishing within the exclusive economic zone*
21 *adjacent to Pacific Insular Areas.*

22 “(5) *A Pacific Fishery Agreement shall not be*
23 *entered into if it is determined by the Governor of the*
24 *appropriate Pacific Insular Area, the Secretary, or*
25 *the Western Pacific Council that such an agreement*

1 *will adversely affect the fishing activities of the indig-*
2 *enous peoples of such Pacific Insular Area.*

3 “(6) *Foreign fishing authorized under a Pacific*
4 *Fishery Agreement shall conform to the terms of such*
5 *agreement establishing the conditions under which a*
6 *permit is issued and held valid. These terms, at a*
7 *minimum, shall require that a Pacific Fishery Agree-*
8 *ment include provisions for a Western Pacific based*
9 *observer program, annual determination of the quan-*
10 *tity of fish that may be harvested, annual determina-*
11 *tion of fees, data collection and reporting systems, re-*
12 *search plans, and monitoring and enforcement tools*
13 *such as the Vessel Monitoring System (VMS) to en-*
14 *sure effective compliance with the provisions of the*
15 *Pacific Fishery Agreement and any other terms and*
16 *conditions deemed appropriate by the Secretary of*
17 *State, in consultation with the Secretary, the Gov-*
18 *ernor of the appropriate Pacific Insular Area, and*
19 *the Western Pacific Council.*

20 “(7) *The Secretary of State may not negotiate a*
21 *Pacific Fishery Agreement with a country that is in*
22 *violation of a governing international fishery agree-*
23 *ment in effect under this Act.*

24 “(8) *A Pacific Fishery Agreement shall be valid*
25 *for a period not to exceed three years and shall be-*

1 *come effective according to the procedure of section*
2 *203 of this Act.*

3 “(9) *Foreign Fishing under a Pacific Fishery*
4 *Agreement shall not be subject to sections 201(d)*
5 *through (f) and section 201(i) of this Act.*

6 “(10) *Prior to entering into a Pacific Fishery*
7 *Agreement, the Western Pacific Council or the appro-*
8 *priate Governor shall develop a three-year plan de-*
9 *tailing uses for funds to be collected by the Secretary*
10 *pursuant to such agreement. Such plan shall include*
11 *conservation goals and guidelines and prioritize*
12 *planned conservation and management projects. In*
13 *the case of American Samoa, Guam, and the Northern*
14 *Mariana Islands, the appropriate Governor shall de-*
15 *velop such a plan in consultation with the Western*
16 *Pacific Council. In the case of other Pacific Insular*
17 *Areas, the Western Pacific Council shall develop such*
18 *a plan in consultation with the Secretary. If a Gov-*
19 *ernor or the Western Pacific Council intends to renew*
20 *a Pacific Fishery Agreement, a subsequent three-year*
21 *plan shall be developed at the end of the second year*
22 *of the existing three-year plan.*

23 “(11) *Fees established pursuant to a Pacific*
24 *Fishery Agreement shall be paid to the Secretary by*
25 *the owner or operator of any foreign fishing vessel for*

1 *which a permit has been issued pursuant to this sec-*
 2 *tion. The prescription of such fees is not subject to 31*
 3 *U.S.C. 9701. The amount of fees may exceed adminis-*
 4 *trative costs and shall be reasonable, fair, and equi-*
 5 *table to all participants in the fisheries.*

6 *“(12) Amounts collected by the Secretary from a*
 7 *Pacific Fishery Agreement for American Samoa,*
 8 *Guam, or the Northern Mariana Islands shall be de-*
 9 *posited into the United States Treasury and then cov-*
 10 *ered over to the Treasury of the Pacific Insular Area*
 11 *for which those funds were collected. After the transfer*
 12 *of such funds, the Governor of each appropriate Pa-*
 13 *cific Insular Area shall compensate:*

14 *“(A) the Western Pacific Council for mutu-*
 15 *ally agreed upon administrative costs incurred*
 16 *relating to any Pacific Fishery Agreement of the*
 17 *respective Pacific Insular Area; and*

18 *“(B) the Secretary of State for mutually*
 19 *agreed upon travel expenses for no more than*
 20 *two federal representatives incurred as a direct*
 21 *result of complying with section 204(e)(1).*

22 *“(13) There is established in the United States*
 23 *Treasury a Western Pacific Sustainable Fisheries*
 24 *Fund into which amounts collected by the Secretary*
 25 *from a Pacific Fisheries Agreement in any Pacific*

1 *Insular Area other than American Samoa, Guam, or*
2 *the Northern Mariana Islands shall be deposited. The*
3 *Fund shall be made available, without appropriation*
4 *or fiscal year limitation, by the Secretary to the West-*
5 *ern Pacific Council, for the purpose of carrying out*
6 *the provisions of this section.*

7 *“(14) Amounts used from this Fund to carry out*
8 *the provisions of this section shall not diminish other*
9 *funding received by the Western Pacific Council for*
10 *the purpose of carrying out activities within the*
11 *Western Pacific Council’s mandate other than Pacific*
12 *Fisheries Agreements.*

13 *“(15) Amounts generated by Pacific Fishery*
14 *Agreements in American Samoa, Guam, or the North-*
15 *ern Mariana Islands shall be used for purposes, as de-*
16 *scribed in a three year conservation and management*
17 *plan developed under paragraph (10), that have been*
18 *determined by the Governors of the respective Pacific*
19 *Insular Areas in consultation with the Western Pa-*
20 *cific Council to contribute to fishery conservation and*
21 *management in the respective Pacific Insular Area.*

22 *“(16) The Western Pacific Sustainable Fisheries*
23 *Fund, shall be made available by the Secretary to the*
24 *Western Pacific Council for purposes, as described in*
25 *the three year conservation and management plan,*

1 *that have been determined by the Western Pacific*
 2 *Council in consultation with the Secretary to contrib-*
 3 *ute to fishery conservation and management in the*
 4 *Western Pacific Region. Travel costs of no more than*
 5 *two federal representatives, incurred by the Secretary*
 6 *of State as a direct result of complying with para-*
 7 *graph (2) shall be reimbursed from the Western Pa-*
 8 *cific Sustainable Fisheries Fund.*

9 *“(17) ‘Fishery conservation and management’ as*
 10 *used in paragraphs (15) and (16) includes but is not*
 11 *limited to:*

12 *“(A) An approved Western Pacific based ob-*
 13 *server program to be operated by the Secretary,*
 14 *subject to the approval of the Western Pacific*
 15 *Council, and in consultation with the Governor*
 16 *of the relevant Pacific Insular Area;*

17 *“(B) Marine and fisheries research, includ-*
 18 *ing but not limited to: data collection, analysis,*
 19 *evaluation, and reporting;*

20 *“(C) Conservation, education, and enforce-*
 21 *ment, including but not limited to: living ma-*
 22 *rine resource, habitat monitoring and coastal*
 23 *studies;*

24 *“(D) Grants to the University of Hawaii*
 25 *for technical assistance projects in the United*

1 *States Pacific Insular Areas and the Freely As-*
 2 *sociated States including but not limited to:*
 3 *Education and training in the development and*
 4 *implementation of sustainable marine resources*
 5 *development projects, scientific research, data*
 6 *collection and analysis, and conservation strate-*
 7 *gies;*

8 “(E) *Western Pacific Community-Based*
 9 *Demonstration Projects to foster and promote the*
 10 *management, conservation, and economic en-*
 11 *hancement of the indigenous, traditional fishery*
 12 *practices of Western Pacific Communities.*

13 “(18) *Monies collected by the Secretary from a*
 14 *Pacific Fishery Agreement for a Pacific Insular Area*
 15 *may be allocated for other marine and coastal related*
 16 *uses by the government of each Pacific Insular Area*
 17 *or in the case of Pacific Insular Areas other than*
 18 *American Samoa, Guam, and the Northern Mariana*
 19 *Islands by the Western Pacific Council only after the*
 20 *costs of uses specified in paragraphs (6) and (17)(A)*
 21 *through (17)(E) under this title and the administra-*
 22 *tive costs of Pacific Fisheries Agreements have been*
 23 *met. The determination of when conservation and*
 24 *management and administrative costs have been met*
 25 *shall be made, in the case of American Samoa, Guam,*

1 *and the Northern Mariana Islands by the Governor*
 2 *of the respective Pacific Insular Area with the concur-*
 3 *rence of the Western Pacific Council, and in the case*
 4 *of any Pacific Insular Area other than American*
 5 *Samoa, Guam, or the Northern Mariana Islands by*
 6 *the Western Pacific Council.*

7 “(19) *The Western Pacific Sustainable Fisheries*
 8 *Fund of the United States Treasury, shall be made*
 9 *available by the Secretary for the purpose of fisheries*
 10 *conservation and management in the State of Hawaii*
 11 *and the Western Pacific Region only after fisheries*
 12 *conservation and management needs in such Pacific*
 13 *Insular Area other than American Samoa, Guam, or*
 14 *the Northern Mariana Islands have been met as deter-*
 15 *mined by the Western Pacific Council in accordance*
 16 *with its operational standards, policies, procedures,*
 17 *and program milestones.*

18 “(20) *In the case of American Samoa, Guam, or*
 19 *the Northern Mariana Islands, amounts received by*
 20 *the Secretary which are attributable to fines or pen-*
 21 *alties imposed under this Act, including such sums*
 22 *collected from the forfeiture and disposition or sale of*
 23 *property seized subject to its authority, will be covered*
 24 *over to the Treasury of the Pacific Island Area adja-*
 25 *cent to the exclusive economic zone in which the viola-*

1 *tion occurred, after payment of direct costs of the en-*
 2 *forcement action to other entities involved in such en-*
 3 *forcement action. The Governor of the respective Pa-*
 4 *cific Insular Area may use such monies available*
 5 *under this paragraph for purposes other than fisheries*
 6 *conservation and management. In the case of viola-*
 7 *tions occurring in the exclusive economic zone adja-*
 8 *cent to a Pacific Insular Area other than American*
 9 *Samoa, Guam, and the Northern Mariana Islands,*
 10 *amounts received by the Secretary which are attrib-*
 11 *utable to fines or penalties imposed under this Act,*
 12 *including such sums collected from the forfeiture and*
 13 *disposition or sale of property seized subject to its au-*
 14 *thority, will be covered over to the Western Pacific*
 15 *Sustainable Fisheries Fund of the United States*
 16 *Treasury to be used for conservation and management*
 17 *as described in paragraphs (6) and (17)(A) through*
 18 *(17)(E) or other related marine and coastal*
 19 *projects.”.*

20 *(e) IMPORT PROHIBITIONS.—Section 205(a) (16*
 21 *U.S.C. 1825(a)) is amended—*

22 *(1) by striking “or” at the end of paragraph (3);*

23 *(2) by inserting “or” after the semicolon at the*
 24 *end of paragraph (4); and*

25 *(3) by adding at the end the following:*

1 “(5) he has been unable, within a reasonable pe-
 2 riod of time, to conclude with any foreign nation an
 3 international agreement to establish standards and
 4 measures for bycatch reduction under section
 5 202(g),”.

6 (f) *LARGE SCALE DRIFTNET FISHING*.—Section 206
 7 (16 U.S.C. 1826) is amended—

8 (1) in subsection (e), by striking paragraphs (3)
 9 and (4), and redesignating paragraphs (5) and (6) as
 10 (3) and (4), respectively; and

11 (2) in subsection (f), by striking “(e)(6),” and
 12 inserting “(e)(4),”.

13 **SEC. 107. NATIONAL STANDARDS.**

14 (a) Section 301(a)(5) (16 U.S.C. 1851(a)(5)) is
 15 amended by striking “promote” and inserting “consider”.

16 (b) Section 301(a) (16 U.S.C. 1851(a)) is amended by
 17 adding at the end thereof the following:

18 “(8) Conservation and management measures
 19 shall take into account the importance of the harvest
 20 of fishery resources to minimize, to the extent prac-
 21 ticable, adverse economic impacts on, and provide for
 22 the sustained participation of, fishing communities;
 23 except that no such measure shall have economic allo-
 24 cation as its sole purpose.

1 “(9) Conservation and management measures
2 shall, to the extent practicable, minimize bycatch and
3 the mortality of bycatch which cannot be avoided.

4 “(10) Conservation and management measures
5 shall promote the safety of human life at sea.”.

6 **SEC. 108. REGIONAL FISHERY MANAGEMENT COUNCILS.**

7 (a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

8 (1) by inserting “(1)” after the subsection head-
9 ing;

10 (2) by redesignating paragraphs (1) through (8)
11 as subparagraphs (A) through (H), respectively;

12 (3) by striking “section 304(f)(3)” wherever it
13 appears and inserting “paragraph (3)”;

14 (4) in paragraph (1)(B), as amended—

15 (A) by striking “and Virginia” and insert-
16 ing “Virginia, and North Carolina”;

17 (B) by inserting “North Carolina, and”
18 after “except”;

19 (C) by striking “19” and inserting “21”;
20 and

21 (D) by striking “12” and inserting “13”;
22 and

23 (5) by striking paragraph (1)(F), as redesign-
24 ated, and inserting the following:

1 “(F) *PACIFIC COUNCIL.*—*The Pacific Fishery*
 2 *Management Council shall consist of the States of*
 3 *California, Oregon, Washington, and Idaho and shall*
 4 *have authority over the fisheries in the Pacific Ocean*
 5 *seaward of such States. The Pacific Council shall*
 6 *have 14 voting members, including 8 appointed by*
 7 *the Secretary in accordance with subsection (b)(2) (at*
 8 *least one of whom shall be appointed from each such*
 9 *State), and including one appointed from an Indian*
 10 *tribe with Federally recognized fishing rights from*
 11 *California, Oregon, Washington, or Idaho in accord-*
 12 *ance with subsection (b)(5).’;*

13 (6) *by indenting the sentence at the end thereof*
 14 *and inserting “(2)” in front of “Each Council”; and*
 15 (7) *by adding at the end the following:*

16 “(3) *The Secretary shall have authority over any*
 17 *highly migratory species fishery that is within the*
 18 *geographical area of authority of more than one of the*
 19 *following Councils: New England Council, Mid-Atlan-*
 20 *tic Council, South Atlantic Council, Gulf Council,*
 21 *and Caribbean Council.’.*

22 (b) *Section 302(b) (16 U.S.C. 1852(b)) is amended—*
 23 (1) *by striking “subsection (b)(2)” in paragraph*
 24 *(1)(C) and inserting “paragraphs (2) and (5) of this*
 25 *subsection”;*

1 (2) by inserting “full” before “consecutive” in
2 the second sentence of paragraph (3); and

3 (3) by striking paragraph (5) and inserting after
4 paragraph (4) the following:

5 “(5)(A) The Secretary shall appoint to the Pa-
6 cific Fishery Management Council one representative
7 of an Indian tribe with Federally recognized fishing
8 rights from California, Oregon, Washington, or Idaho,
9 from a list of not less than 3 individuals submitted
10 by the tribal governments. The representative shall
11 serve for a term of 3 years and may not serve more
12 than 3 full consecutive terms. The Secretary, in con-
13 sultation with the Secretary of the Interior and tribal
14 governments, shall establish by regulation the proce-
15 dure for submitting lists under this subparagraph.

16 “(B) Representation shall be rotated among the
17 tribes taking into consideration—

18 “(i) the qualifications of the individuals on
19 the list referred to in subparagraph (A),

20 “(ii) the various treaty rights of the Indian
21 tribes involved and judicial cases that set forth
22 how those rights are to be exercised, and

23 “(iii) the geographic area in which the tribe
24 of the representative is located.

1 “(C) A vacancy occurring prior to the expiration
 2 of any term shall be filled in the same manner as set
 3 out in subparagraphs (A) and (B), except that the
 4 Secretary may use the list from which the vacating
 5 representative was chosen.

6 “(6) The Secretary may remove for cause any
 7 member of a Council required to be appointed by the
 8 Secretary in accordance with subsection (b)(2) if—

9 “(A) the Council concerned first rec-
 10 ommends removal by not less than two-thirds of
 11 the members who are voting members and sub-
 12 mits such removal recommendation to the Sec-
 13 retary in writing together with a statement of
 14 the basis for the recommendation; or

15 “(B) the member is found by the Secretary,
 16 after notice and an opportunity for a hearing in
 17 accordance with section 554 of title 5, United
 18 States Code, to have committed an act prohibited
 19 by section 307(1)(O).”.

20 (c) Section 302(d) (16 U.S.C. 1852(d)) is amended in
 21 the first sentence—

22 (1) by striking “each Council,” and inserting
 23 “each Council who are required to be appointed by
 24 the Secretary and”; and

1 (2) *by striking “shall, until January 1, 1992,”*
 2 *and all that follows through “GS-16” and inserting*
 3 *“shall receive compensation at the daily rate for GS-*
 4 *15, step 7”.*

5 (d) *Section 302(e) (16 U.S.C. 1852(e)) is amended by*
 6 *adding at the end the following:*

7 “(5) *At the request of any voting member of a*
 8 *Council, the Council shall hold a rollcall vote on any*
 9 *matter before the Council. The official minutes and*
 10 *other appropriate records of any Council meeting*
 11 *shall identify all rollcall votes held, the name of each*
 12 *voting member present during each rollcall vote, and*
 13 *how each member voted on each rollcall vote.”.*

14 (e) *Section 302(g) (16 U.S.C. 1852(g)) is amended by*
 15 *redesignating paragraph (4) as paragraph (5), and by in-*
 16 *serting after paragraph (3) the following:*

17 “(4) *The Secretary shall establish advisory pan-*
 18 *els to assist in the collection and evaluation of infor-*
 19 *mation relevant to the development of any fishery*
 20 *management plan or plan amendment under section*
 21 *304(g). Each advisory panel shall participate in all*
 22 *aspects of the development of the plan or amendment;*
 23 *be balanced in its representation of commercial, rec-*
 24 *reational, and other interests; and consist of not less*
 25 *than 7 individuals who are knowledgeable about the*

1 *fishery for which the plan or amendment is developed,*
 2 *selected from among—*

3 “(A) *members of advisory committees and*
 4 *species working groups appointed under Acts im-*
 5 *plementing relevant international fishery agree-*
 6 *ments pertaining to highly migratory species;*
 7 *and*

8 “(B) *other interested persons.*”.

9 (f) *Section 302(h) (16 U.S.C. 1852(h)) is amended—*

10 (1) *by striking “section 304(f)(3)” in paragraphs*
 11 (1) *and (5) and inserting “subsection (a)(3)”;* *and*

12 (2) *by striking “section 204(b)(4)(C),” in para-*
 13 *graph (2) and inserting “section 204(b)(4)(C) or sec-*
 14 *tion 204(d).”.*

15 (g) *Section 302 is amended further by striking sub-*
 16 *section (i), and by redesignating subsections (j) and (k) as*
 17 *subsections (i) and (j), respectively.*

18 (h) *Section 302(i), as redesignated, is amended—*

19 (1) *by striking “of the Councils” in paragraph*
 20 (1) *and inserting “established under subsection (g)”;*

21 (2) *by striking “of a Council:” in paragraph (2)*
 22 *and inserting “established under subsection (g).”;*

23 (3) *in paragraph (2)(C)—*

24 (A) *by striking “Council’s”;*

1 (B) by adding the following at the end:

2 *“The published agenda of the meeting may not*
3 *be modified without public notice or within 14*
4 *days prior to the meeting date.”;*

5 (4) by adding the following at the end of para-
6 graph (2)(D): *“All written data submitted to a Coun-*
7 *cil by an interested person shall include a statement*
8 *of the source and date of such information. Any oral*
9 *or written statement shall include a brief description*
10 *of the background and interests of the person in the*
11 *subject of the oral or written statement.”;*

12 (5) by striking paragraph (2)(E) and inserting:

13 *“(E) Detailed minutes of each meeting of*
14 *the Council shall be kept and shall contain a*
15 *record of the persons present, a complete and ac-*
16 *curate description of matters discussed and con-*
17 *clusions reached, and copies of all statements*
18 *filed. The Chairman shall certify the accuracy of*
19 *the minutes of each meeting and submit a copy*
20 *thereof to the Secretary. The minutes shall be*
21 *made available to any court of competent juris-*
22 *diction.”; and*

23 (6) in paragraph (2)(F)—

24 (A) by striking *“by the Council”* the first
25 place it appears;

1 (B) by inserting “or the Secretary, as ap-
2 propriate” after “of the Council”; and

3 (C) by striking “303(d)” each place it ap-
4 pears and inserting “402(b)”.

5 (i) Section 302(j), as redesignated, is amended—

6 (1) by inserting “AND RECUSAL” after “INTER-
7 EST” in the subsection heading;

8 (2) by striking paragraph (1) and inserting the
9 following:

10 “(1) For the purposes of this subsection—

11 “(A) the term ‘affected individual’ means
12 an individual who—

13 “(i) is nominated by the Governor of a
14 State for appointment as a voting member
15 of a Council in accordance with subsection
16 (b)(2); or

17 “(ii) is a voting member of a Council
18 appointed under subsection (b)(2); and

19 “(B) the term ‘designated official’ means a
20 person with expertise in Federal conflict-of-inter-
21 est requirements who is designated by the Sec-
22 retary, with the concurrence of a majority of the
23 voting members of the Council, to attend Council
24 meetings and make determinations under para-
25 graph (7)(B).”;

1 (3) by striking “(1)(A)” in paragraph (3)(A)
2 and inserting “(1)(A)(i)”;

3 (4) by striking “(1) (B) or (C)” in paragraph
4 (3)(B) and inserting “(1)(A)(ii)”;

5 (5) by striking “(1) (B) or (C)” in paragraph
6 (4) and inserting “(1)(A)(ii)”;

7 (6)(A) by striking “and” at the end of para-
8 graph (5)(A);

9 (B) by striking the period at the end of para-
10 graph (5)(B) and inserting a semicolon and the word
11 “and”; and

12 (C) by adding at the end of paragraph (5) the
13 following:

14 “(C) be kept on file by the Secretary for use
15 in reviewing determinations under paragraph
16 (7)(B) and made available for public inspection
17 at reasonable hours.”;

18 (7) by striking “(1) (B) or (C)” in paragraph
19 (6) and inserting “(1)(A)(ii)”;

20 (8) by redesignating paragraph (7) as (8) and
21 inserting after paragraph (6) the following:

22 “(7)(A) After the effective date of regulations
23 promulgated under subparagraph (F) of this para-
24 graph, an affected individual required to disclose a fi-
25 nancial interest under paragraph (2) shall not vote

1 on a Council decision which would have a significant
2 and predictable effect on such financial interest. A
3 Council decision shall be considered to have a signifi-
4 cant and predictable effect on a financial interest if
5 there is a close causal link between the Council deci-
6 sion and an expected and disproportionate benefit,
7 shared only by a minority of persons within the same
8 fishery and gear type, to the financial interest. An af-
9 fected individual who may not vote may participate
10 in Council deliberations relating to the decision after
11 notifying the Council of the voting recusal and identi-
12 fying the financial interest that would be affected.

13 “(B) At the request of an affected individual, or
14 upon the initiative of the appropriate designated offi-
15 cial, the designated official shall make a determina-
16 tion for the record whether a Council decision would
17 have a significant and predictable effect on a finan-
18 cial interest.

19 “(C) Any Council member may submit a written
20 request to the Secretary to review any determination
21 by the designated official under subparagraph (B)
22 within 10 days of such determination. Such review
23 shall be completed within 30 days of receipt of the re-
24 quest.

1 “(D) Any affected individual who does not vote
2 in a Council decision in accordance with this sub-
3 section shall state for the record how he or she would
4 have voted on such decision if he or she had voted.

5 “(E) If the Council makes a decision before the
6 Secretary has reviewed a determination under sub-
7 paragraph (C), the eventual ruling may not be treat-
8 ed as cause for the invalidation or reconsideration by
9 the Secretary of such decision.

10 “(F) The Secretary, in consultation with the
11 Councils and by not later than one year from the date
12 of enactment of this Act, shall promulgate regulations
13 which prohibit an affected individual from voting in
14 accordance with subparagraph (A), and which allow
15 for the making of determinations under subpara-
16 graphs (B) and (C).”; and

17 (9) by striking “(1) (B) or (C)” in paragraph
18 (8), as redesignated, and inserting “(1)(A)(ii)”.

19 **SEC. 109. FISHERY MANAGEMENT PLANS.**

20 (a) *REQUIRED PROVISIONS.*—Section 303(a) (16
21 U.S.C. 1853(a)) is amended—

22 (1) by striking paragraph (7) and inserting the
23 following:

24 “(7) describe and identify essential fish habitat
25 for the fishery based on the guidelines established by

1 *the Secretary under section 305(b)(1)(A), minimize*
 2 *where practicable adverse effects on such habitat*
 3 *caused by fishing, and identify other actions which*
 4 *should be considered to encourage the conservation*
 5 *and enhancement of such habitat.”*

6 *(2) by striking “and” at the end of paragraph*
 7 *(8);*

8 *(3) by inserting “and fishing communities” after*
 9 *“fisheries” in paragraph (9)(A);*

10 *(4) by striking the period at the end of para-*
 11 *graph (9) and inserting a semicolon; and*

12 *(5) by adding at the end the following:*

13 *“(10) specify objective and measurable criteria*
 14 *for identifying when the fishery to which the plan ap-*
 15 *plies is overfished (with an analysis of how the cri-*
 16 *teria were determined and the relationship of the cri-*
 17 *teria to the reproductive potential of stocks of fish in*
 18 *that fishery) and, in the case of a fishery which the*
 19 *Council or Secretary has determined is overfished, or*
 20 *is approaching an overfished condition, contain con-*
 21 *servation and management measures to rebuild the*
 22 *fishery;*

23 *“(11) assess the amount and type of bycatch oc-*
 24 *curring in the fishery, and, to the extent practicable*

1 *and in the following priority, include conservation*
 2 *and management measures to—*

3 “(A) *minimize bycatch; and*

4 “(B) *minimize the mortality of bycatch*
 5 *which cannot be avoided;*

6 “(12) *assess the amount and type of fish caught*
 7 *during recreational fishing, and to the extent prac-*
 8 *ticable, include conservation and management meas-*
 9 *ures to minimize the mortality of fish caught and re-*
 10 *leased that are the target species of recreational fish-*
 11 *ing, under catch and release programs;*

12 “(13) *take into account the safety of human life*
 13 *at sea.”.*

14 (b) *IMPLEMENTATION.*—*Not later than 18 months after*
 15 *the date of enactment of this Act, each Regional Fishery*
 16 *Management Council shall submit to the Secretary of Com-*
 17 *merce amendments to each fishery management plan under*
 18 *its authority to comply with the amendments made in sub-*
 19 *section (a) of this Act.*

20 (c) *DISCRETIONARY PROVISIONS.*—*Section 303(b) (16*
 21 *U.S.C. 1853(b)) is amended—*

22 (1) *in paragraph (6)—*

23 (A) *by striking “system for limiting access*
 24 *to” and inserting “limited access system for”;*

25 *and*

1 (B) by striking “fishery” in subparagraph
 2 (E) and inserting “fishery and fishing commu-
 3 nity”;

4 (2) by inserting “one or more” in paragraph (8)
 5 after “require”;

6 (3) by striking “and” at the end of paragraph
 7 (9);

8 (4) by redesignating paragraph (10) as para-
 9 graph (11); and

10 (5) by inserting after paragraph (9) the follow-
 11 ing:

12 “(10) include, consistent with the other provi-
 13 sions of this Act, conservation and management meas-
 14 ures that provide a harvest preference or other incen-
 15 tives for participants within each gear group to em-
 16 ploy fishing practices that result in lower levels of
 17 bycatch; and”.

18 (d) *REGULATIONS*.—Section 303 (16 U.S.C. 1853) is
 19 amended by striking subsection (c) and inserting the follow-
 20 ing:

21 “(c) *PROPOSED REGULATIONS*.—Proposed regulations
 22 which the Council deems necessary or appropriate for the
 23 purposes of implementing a fishery management plan or
 24 plan amendment may be submitted to the Secretary for ac-
 25 tion under section 304—

1 “(1) *simultaneously with submission of the plan*
 2 *or amendment to the Secretary for action under sec-*
 3 *tion 304; or*

4 “(2) *at any time after the plan or amendment*
 5 *is approved.*”.

6 (e) *INDIVIDUAL FISHING QUOTAS.—Subsection 303*
 7 *(16 U.S.C. 1853) is amended further by striking subsections*
 8 *(d), (e), and (f), and inserting the following:*

9 “(d) *INDIVIDUAL FISHING QUOTAS.—*

10 “(1)(A) *A Council may not recommend and the*
 11 *Secretary may not approve or implement any fishery*
 12 *management plan, plan amendment or regulation*
 13 *under this Act which creates a new individual fishing*
 14 *quota program during the fiscal years for which funds*
 15 *are authorized under section 4.*

16 “(B) *Any fishery management plan, plan*
 17 *amendment or regulation approved by the Secretary*
 18 *on or after January 4, 1995 which creates any new*
 19 *individual fishing quota program shall be repealed*
 20 *and immediately resubmitted by the Secretary to the*
 21 *appropriate Council and shall not be recommended,*
 22 *approved or implemented during the moratorium set*
 23 *forth in paragraph (1).*

24 “(2)(A) *No provision of law shall be construed to*
 25 *limit the authority of a Council to recommend and*

1 *the Secretary to approve the termination or limita-*
 2 *tion, without compensation to holders of any limited*
 3 *access system permits, of a fishery management plan,*
 4 *plan amendment or regulation that provides for a*
 5 *limited access system, including an individual fishing*
 6 *quota system.*

7 *“(B) This subsection shall not be construed to*
 8 *prohibit a Council from recommending and the Sec-*
 9 *retary from approving amendments to a fishery man-*
 10 *agement plan, plan amendment, or regulation which*
 11 *implement an individual fishing quota program, if*
 12 *such program was approved prior to January 4,*
 13 *1995.*

14 *“(3) Individual fishing quotas shall be consid-*
 15 *ered permits for the purposes of sections 307, 308 and*
 16 *309.*

17 *“(4)(A) A Council may recommend, and the Sec-*
 18 *retary may approve and administer, a program*
 19 *which allows up to 25 percent of any fees collected*
 20 *under section 304(d)(2) to be used, pursuant to sec-*
 21 *tion 1104A(a)(7) of the Merchant Marine Act, 1936*
 22 *(46 U.S.C. App. 1274(a)(7)), to guarantee or make a*
 23 *commitment to guarantee, payment of principal of*
 24 *and interest on an obligation which aids in financing*
 25 *the—*

1 “(i) purchase of individual fishing quotas
2 by fishermen who fish from small vessels; and

3 “(ii) first-time purchase of individual fish-
4 ing quotas by entry level fishermen.

5 “(B) A Council making a recommendation under
6 subparagraph (A) shall recommend criteria, consist-
7 ent with the provisions of this Act, that a fisherman
8 must meet to qualify for guarantees under clauses (i)
9 and (ii) of subparagraph (A) and the portion of funds
10 to be allocated for guarantees under each clause.”.

11 (f) *INDIVIDUAL FISHING QUOTA REPORT.*—(1) Not
12 later than June 1, 1999, the Secretary, in consultation with
13 the Councils and National Academy of Sciences, shall sub-
14 mit to the Congress a comprehensive report on individual
15 fishing quotas, which shall propose amendments to the Mag-
16 nuson Fishery Conservation and Management Act (16
17 U.S.C. 1801 *et seq.*) to implement a national policy with
18 respect to individual fishing quotas. The report shall ad-
19 dress all aspects of such quotas, including an assessment
20 of the impacts and advisability of—

21 (A) limiting or prohibiting the transferability of
22 such quotas;

23 (B) mechanisms to prevent foreign control of
24 United States fisheries under individual fishing quota
25 programs, including mechanisms to prohibit persons

1 *who are not eligible to be deemed a citizen of the*
2 *United States for the purpose of operating a vessel in*
3 *the coastwise trade under section 2(a) and section*
4 *2(c) of the Shipping Act, 1916 (46 U.S.C. 802) from*
5 *holding individual fishing quotas;*

6 *(C) limiting the duration of individual fishing*
7 *quota programs;*

8 *(D) providing revocable Federal permits to proc-*
9 *ess a quantity of fish that correspond to individual*
10 *fishing quotas;*

11 *(E) mechanisms to provide for diversity and to*
12 *minimize adverse social and economic impacts on*
13 *fishing communities, other fisheries affected by the*
14 *displacement of vessels, and any impacts associated*
15 *with the shifting of capital value from fishing vessels*
16 *to individual fishing quotas, as well as the advisabil-*
17 *ity of allowing capital construction funds to be used*
18 *to purchase individual fishing quotas;*

19 *(F) mechanisms to provide for effective monitor-*
20 *ing and enforcement, including incentives to reduce*
21 *economic discards and allow for the inspection of fish*
22 *harvested;*

23 *(G) establishing threshold criteria for determin-*
24 *ing whether a fishery may be considered for individ-*
25 *ual fishing quota management, including criteria re-*

1 *lated to geographical range, population dynamics and*
 2 *condition of a fish stock, characteristics of a fishery,*
 3 *and participation by commercial and recreational*
 4 *fishermen in the fishery;*

5 *(H) mechanisms to ensure that vessel owners,*
 6 *vessel masters, crew members, and United States fish*
 7 *processors are treated fairly and equitably in initial*
 8 *allocations, to require persons holding individual fish-*
 9 *ing quotas to be on board a vessel, and to facilitate*
 10 *new entry under individual fishing quota programs;*

11 *(I) allowing individual fishing quotas to be sold*
 12 *by the Federal government through auctions; and*

13 *(J) such other matters as the Secretary deems*
 14 *appropriate.*

15 *(2) The report shall include a detailed analysis of indi-*
 16 *vidual fishing quota programs already implemented in the*
 17 *United States, including the impacts of transferability, the*
 18 *impacts on past and present participants, on fishing com-*
 19 *munities, on the rate and total amount of bycatch (includ-*
 20 *ing economic and regulatory discards) in the fishery, on*
 21 *the safety of life and vessels in the fishery, on any excess*
 22 *harvesting or processing capacity in the fishery, on any*
 23 *gear conflicts in the fishery, on product quality from the*
 24 *fishery, on the effectiveness of enforcement in the fishery,*
 25 *and on the size and composition of fishing vessel fleets. The*

1 report shall also include any information about individual
2 fishing quota programs in other countries that may be use-
3 ful.

4 (3) The report shall identify alternative conservation
5 and management measures, including other limited access
6 systems, that could accomplish the same objectives as indi-
7 vidual fishing quota programs, as well as characteristics
8 that are unique to individual fishing quotas.

9 (4) The Secretary shall, in consultation with the Coun-
10 cils, the fishing industry, affected States, conservation orga-
11 nizations and other interested persons, establish two indi-
12 vidual fishing quota review groups to assist in the prepara-
13 tion of the report, which shall represent: (A) Alaska, Ha-
14 waii, and Pacific Coast States; and (B) Atlantic Coast and
15 Gulf of Mexico States. The Secretary shall, to the maximum
16 extent practicable, attempt to achieve a balanced represen-
17 tation of viewpoints among the individuals on each review
18 group. The review groups shall not be subject to the Federal
19 Advisory Committee Act (5 App. U.S.C.).

20 (5) The Secretary shall conduct public hearings in
21 each Council region to obtain comments on individual fish-
22 ing quotas in preparing the report, and shall publish in
23 the Federal Register a notice and opportunity for public
24 comment on the draft of the report, or any revision thereof.

1 *The dissenting views of any Council or affected State shall*
 2 *be included in the final report.*

3 (6) *In the event that the authorization of appropria-*
 4 *tions under section 4 of the Magnuson Fishery Conservation*
 5 *and Management Act (16 U.S.C. 1801 et seq.) expires prior*
 6 *to enactment of amendments to such Act implementing a*
 7 *national policy with respect to individual fishing quotas,*
 8 *a Council may recommend and the Secretary may approve*
 9 *new individual fishing quota programs only with the ap-*
 10 *proval of a two-thirds majority of voting members of the*
 11 *Council. In such event, the Councils and Secretary shall*
 12 *take into account changes that may be required upon enact-*
 13 *ment of such amendments.*

14 (g) *NORTH PACIFIC LOAN PROGRAM.—(1) By not later*
 15 *than January 1, 1997, the North Pacific Fishery Manage-*
 16 *ment Council shall recommend to the Secretary a program*
 17 *which uses the full amount of fees authorized to be used*
 18 *under section 303(d)(4) of the Magnuson Fishery Conserva-*
 19 *tion and Management Act (16 U.S.C. 1853(d)(4)) in the*
 20 *halibut and sablefish fisheries off Alaska to guarantee obli-*
 21 *gations in accordance with such section.*

22 (2)(A) *For the purposes of this subsection, the phrase*
 23 *“fishermen who fish from small vessels” in section*
 24 *303(d)(4)(A)(i) of such Act shall mean fishermen wishing*
 25 *to purchase individual fishing quotas for use from Category*

1 *B, Category C, or Category D vessels, as defined in 50 CFR*
2 *676.20(a)(2) (iii) and (iv), whose aggregate ownership of*
3 *individual fishing quotas will not exceed the equivalent of*
4 *a total of 50,000 pounds of halibut and sablefish harvested*
5 *in the fishing year in which a guarantee application is*
6 *made if the guarantee is approved, who will participate*
7 *aboard the vessel in the harvest of fish caught under such*
8 *quotas, who have at least 150 days' experience working as*
9 *part of the harvesting crew in any U.S. commercial fishery,*
10 *and who do not own in whole or in part any Category A*
11 *or Category B vessel.*

12 *(B) For the purposes of this subsection, the phrase*
13 *“entry level fishermen” in section 303(d)(4)(A)(ii) of such*
14 *Act shall mean fishermen who do not own any individual*
15 *fishing quotas, who wish to obtain the equivalent of not*
16 *more than a total of 8,000 pounds of halibut and sablefish*
17 *harvested in the fishing year in which a guarantee applica-*
18 *tion is made, and who will participate aboard a vessel in*
19 *the harvest of fish caught under such quotas.*

20 *(h) Nothing in the Sustainable Fisheries Act shall be*
21 *construed to require a reallocation of individual fishing*
22 *quotas under any individual fishing quota program.*

1 **SEC. 110. ACTION BY THE SECRETARY.**

2 (a) *SECRETARIAL REVIEW OF PLANS AND REGULA-*
 3 *TIONS.—Section 304 (16 U.S.C. 1854) is amended by strik-*
 4 *ing subsections (a) and (b) and inserting the following:*

5 “(a) *REVIEW OF PLANS.—*

6 “(1) *Upon transmittal by the Council to the Sec-*
 7 *retary of a fishery management plan or plan amend-*
 8 *ment, the Secretary shall—*

9 “(A) *immediately commence a review of the*
 10 *plan or plan amendment to determine whether it*
 11 *is consistent with the national standards, the*
 12 *other provisions of this Act, and any other appli-*
 13 *cable law; and*

14 “(B) *immediately publish in the Federal*
 15 *Register a notice stating that the plan or plan*
 16 *amendment is available and that written data,*
 17 *views, or comments of interested persons on the*
 18 *plan or amendment may be submitted to the Sec-*
 19 *retary during the 60-day period beginning on*
 20 *the date the notice is published.*

21 “(2) *In undertaking the review required under*
 22 *paragraph (1), the Secretary shall—*

23 “(A) *take into account the data, views, and*
 24 *comments received from interested persons;*

25 “(B) *consult with the Secretary of State*
 26 *with respect to foreign fishing; and*

1 “(C) consult with the Secretary of the de-
 2 partment in which the Coast Guard is operating
 3 with respect to enforcement at sea and to fishery
 4 access adjustments referred to in section
 5 303(a)(6).

6 “(3) The Secretary shall approve, disapprove, or
 7 partially approve a plan or plan amendment within
 8 30 days of the end of the comment period under para-
 9 graph (1) by written notice to the Council. A notice
 10 of disapproval or partial approval shall specify—

11 “(A) the applicable law with which the plan
 12 or amendment is inconsistent;

13 “(B) the nature of such inconsistencies; and

14 “(C) recommendations concerning the ac-
 15 tions that could be taken by the Council to con-
 16 form such plan or amendment to the require-
 17 ments of applicable law.

18 “(4) If the Secretary disapproves or partially
 19 approves a plan or amendment, the Council may sub-
 20 mit a revised plan or amendment to the Secretary for
 21 review under this subsection.

22 “(5) For purposes of this subsection and sub-
 23 section (b), the term ‘immediately’ means on or before
 24 the 5th day after the day on which a Council trans-

1 mits to the Secretary a plan, amendment, or proposed
2 regulation that the Council characterizes as final.

3 “(b) *REVIEW OF REGULATIONS.*—

4 “(1) Upon transmittal by the Council to the Sec-
5 retary of proposed regulations prepared under section
6 303(c), the Secretary shall immediately initiate an
7 evaluation of the proposed regulations to determine
8 whether they are consistent with the fishery manage-
9 ment plan, this Act and other applicable law. Within
10 15 days of initiating such evaluation the Secretary
11 shall make a determination and—

12 “(A) if that determination is affirmative,
13 the Secretary shall publish such regulations, with
14 such technical changes as may be necessary for
15 clarity and an explanation of those changes, in
16 the Federal Register for a public comment period
17 of 15 to 60 days; or

18 “(B) if that determination is negative, the
19 Secretary shall notify the Council in writing of
20 the inconsistencies and provide recommendations
21 on revisions that would make the proposed regu-
22 lations consistent with the fishery management
23 plan, this Act, and other applicable law.

24 “(2) Upon receiving a notification under para-
25 graph (1)(B), the Council may revise the proposed

1 *regulations and submit them to the Secretary for re-*
 2 *evaluation under paragraph (1).*

3 *“(3) The Secretary shall promulgate final regu-*
 4 *lations within 30 days after the end of the comment*
 5 *period under paragraph (1)(A). The Secretary shall*
 6 *consult with the Council before making any revisions*
 7 *to the proposed regulations, and must publish in the*
 8 *Federal Register an explanation of any differences be-*
 9 *tween the proposed and final regulations.”;*

10 *(b) PREPARATION BY THE SECRETARY.—Section*
 11 *304(c) (16 U.S.C. 1854(c)) is amended—*

12 *(1) by striking “fishery,” in paragraph (1) and*
 13 *inserting “fishery (other than a fishery to which sec-*
 14 *tion 302(a)(3) applies),”*

15 *(2) by striking all that follows “as the case may*
 16 *be.” in paragraph (1);*

17 *(3) by striking paragraph (2) and inserting :*

18 *“(2) In preparing any plan or amendment*
 19 *under this subsection, the Secretary shall consult with*
 20 *the Secretary of State with respect to foreign fishing*
 21 *and with the Secretary of the department in which*
 22 *the Coast Guard is operating with respect to enforce-*
 23 *ment at sea.”;*

24 *(4) by inserting “under this subsection” after*
 25 *“him” in paragraph (3); and*

1 (5) *by striking “system described in section*
 2 *303(b)(6)” in paragraph (3) and inserting “system,*
 3 *including any individual fishing quota system”.*

4 (c) *INDIVIDUAL FISHING QUOTA FEES.—Section*
 5 *304(d) (16 U.S.C. 1854(d)) is amended—*

6 (1) *by inserting “(1)” immediately before the*
 7 *first sentence; and*

8 (2) *by inserting the at the end the following:*

9 *“(2) Notwithstanding paragraph (1), the Secretary is*
 10 *authorized and shall collect a fee of up to 3 percent of the*
 11 *annual ex-vessel value of fish harvested under any individ-*
 12 *ual fishing quota program or community development*
 13 *quota program to recover the costs directly related to the*
 14 *management and enforcement of such program. Fees col-*
 15 *lected under this paragraph shall be in addition to any*
 16 *other fees charged under this Act and shall be an offsetting*
 17 *collection available only to the Secretary for the purposes*
 18 *of administering and implementing this Act in the fishery*
 19 *in which the fees were collected.”.*

20 (d) *DELAY OF FEES.—Notwithstanding any other law,*
 21 *the Secretary shall not begin the collection of fees under sec-*
 22 *tion 304(d)(2) from persons holding individual fishing*
 23 *quotas in the surf clam and ocean quahog fishery or in the*
 24 *wreckfish fishery until January 1, 2000.*

1 (e) *OVERFISHING*.—Section 304(e) (16 U.S.C. 1854(e))
2 is amended to read as follows:

3 “(e) *REBUILDING OVERFISHED FISHERIES*.—

4 “(1) *The Secretary shall report annually to the*
5 *Congress and the Councils on the status of fisheries*
6 *within each Council’s geographical area of authority*
7 *and identify those fisheries that are overfished or are*
8 *approaching a condition of being overfished. For those*
9 *fisheries managed under a fishery management plan*
10 *or international agreement, the status shall be deter-*
11 *mined using the criteria for overfishing specified in*
12 *such plan or agreement. A fishery shall be classified*
13 *as approaching a condition of being overfished if,*
14 *based on trends in fishing effort, fishery resource size,*
15 *and other appropriate factors, the Secretary estimates*
16 *that the fishery will become overfished within two*
17 *years.*

18 “(2) *In addition, if the Secretary determines at*
19 *any time that a fishery is overfished, the Secretary*
20 *immediately shall notify the appropriate Council and*
21 *request that action be taken to end overfishing in the*
22 *fishery and to implement conservation and manage-*
23 *ment measures to rebuild affected stocks of fish. The*
24 *Secretary shall publish each notice under this para-*
25 *graph in the Federal Register.*

1 “(3) *Within one year of an identification or no-*
 2 *tification under this subsection, the Council (or the*
 3 *Secretary, consistent with section 304(g) and where*
 4 *practicable for fisheries under section 302(a)(3)) shall*
 5 *prepare a fishery management plan, a plan amend-*
 6 *ment, or proposed regulations for fisheries under the*
 7 *authority of such Council or the Secretary—*

8 “(A) *to end overfishing in the fishery and*
 9 *to rebuild affected stocks of fish; or*

10 “(B) *to prevent overfishing from occurring*
 11 *in the fishery whenever such fishery is identified*
 12 *as approaching an overfished condition.*

13 “(4) *For a fishery that is overfished, any fishery*
 14 *management plan, amendment or proposed regula-*
 15 *tions prepared under this section shall—*

16 “(A) *specify a time period for ending over-*
 17 *fishing and rebuilding the fishery that shall—*

18 “(i) *be as short as possible, taking into*
 19 *account the status and biology of any over-*
 20 *fished stocks of fish, the needs of fishing*
 21 *communities and other economic interests,*
 22 *recommendations by international organi-*
 23 *zations in which the United States partici-*
 24 *pates and the interaction of the overfished*

1 *stock of fish within the marine ecosystem;*
 2 *and*

3 “(ii) *not exceed 10 years, except in*
 4 *cases where the biology of the stock of fish*
 5 *or other environmental conditions dictate*
 6 *otherwise.*

7 “(B) *allocate both overfishing restrictions*
 8 *and recovery benefits fairly and equitably among*
 9 *sectors of the fishery; and*

10 “(C) *for fisheries managed under an inter-*
 11 *national agreement, reflect the traditional par-*
 12 *ticipation by fishermen of the United States in*
 13 *the fishery relative to other nations.*

14 “(5) *If, within the one-year period beginning on*
 15 *the date of identification or notification, the Council*
 16 *does not submit to the Secretary a fishery manage-*
 17 *ment plan, plan amendment or proposed regulations*
 18 *under paragraph (3)(A), the Secretary shall within*
 19 *nine months prepare under subsection (c) a fishery*
 20 *management plan or plan amendment to stop over-*
 21 *fishing and rebuild affected stocks of fish.*

22 “(6) *During the development of a fishery man-*
 23 *agement plan, a plan amendment, or proposed regu-*
 24 *lations under this subsection, the Council may request*
 25 *the Secretary to implement interim measures, to be*

1 replaced by such plan, amendment or regulations, to
 2 reduce overfishing. Such measures, if otherwise in
 3 compliance with the provisions of this Act, may be
 4 implemented even though they are not sufficient by
 5 themselves to stop overfishing of a fishery.

6 “(7) The Secretary shall review any fishery
 7 management plan, plan amendment or regulations
 8 implemented under this subsection at routine inter-
 9 vals that may not exceed two years. If the Secretary
 10 finds as a result of the review that such plan, amend-
 11 ment or regulations have not resulted in adequate
 12 progress toward ending overfishing and rebuilding af-
 13 fected fish stocks, the Secretary shall—

14 “(A) in the case of a fishery to which sec-
 15 tion 302(a)(3) applies, immediately make revi-
 16 sions necessary to achieve adequate progress; or

17 “(B) for all other fisheries, immediately no-
 18 tify the appropriate Council under paragraph
 19 (2).”.

20 (f) *FISHERIES UNDER AUTHORITY OF MORE THAN*
 21 *ONE COUNCIL.*—Section 304(f) is amended by striking
 22 paragraph (3).

23 (g) *ATLANTIC HIGHLY MIGRATORY SPECIES.*—Section
 24 304 (16 U.S.C. 1854) is amended further by striking sub-
 25 section (g) and inserting the following:

1 “(g) *ATLANTIC HIGHLY MIGRATORY SPECIES.*—The
2 *Secretary shall prepare a fishery management plan or plan*
3 *amendment with respect to any highly migratory species*
4 *fishery to which section 302(a)(3) applies that requires con-*
5 *servation and management, in accordance with the na-*
6 *tional standards, the other provisions of this Act, and any*
7 *other applicable law. In preparing and implementing any*
8 *such plan or amendment, the Secretary shall—*

9 “(1) *conduct public hearings, at appropriate*
10 *times and in appropriate locations in the geographi-*
11 *cal areas concerned, so as to allow interested persons*
12 *an opportunity to be heard in the preparation and*
13 *amendment of the plan and any regulations imple-*
14 *menting the plan;*

15 “(2)(A) *consult with the Secretary of State with*
16 *respect to foreign fishing and with the Secretary of*
17 *the department in which the Coast Guard is operat-*
18 *ing with respect to enforcement at sea; and*

19 “(B) *consult with and consider the comments*
20 *and views of affected Councils, as well as commis-*
21 *sioners and advisory groups appointed under Acts*
22 *implementing relevant international fishery agree-*
23 *ments pertaining to highly migratory species and the*
24 *advisory panel established under section 302(g);*

1 “(3) establish an advisory panel under section
2 302(g) for each fishery management plan to be pre-
3 pared under this paragraph;

4 “(4) evaluate the likely effects, if any, of con-
5 servation and management measures on participants
6 in the affected fisheries and minimize, to the extent
7 practicable, any disadvantage to United States fisher-
8 men in relation to foreign competitors;

9 “(5) with respect to a highly migratory species
10 for which the United States is authorized to harvest
11 an allocation, quota, or at a fishing mortality level
12 under a relevant international fishery agreement, pro-
13 vide fishing vessels of the United States with a rea-
14 sonable opportunity to harvest such allocation, quota,
15 or fishing mortality level;

16 “(6) review, on a continuing basis (and prompt-
17 ly whenever a recommendation pertaining to fishing
18 for highly migratory species has been made under a
19 relevant international fishery agreement), and revise
20 as appropriate, the conservation and management
21 measures included in the plan;

22 “(7) diligently pursue, through international en-
23 tities (such as the International Commission for the
24 Conservation of Atlantic Tunas), comparable inter-

1 *national fishery management measures with respect*
 2 *to fishing for highly migratory species; and*

3 *“(8) ensure that conservation and management*
 4 *measures adopted under this paragraph—*

5 *“(A) promote international conservation of*
 6 *the affected fishery;*

7 *“(B) take into consideration traditional*
 8 *fishing patterns of fishing vessels of the United*
 9 *States and the operating requirements of the*
 10 *fisheries;*

11 *“(C) are fair and equitable in allocating*
 12 *fishing privileges among United States fishermen*
 13 *and not have economic allocation as the sole pur-*
 14 *pose;*

15 *“(D) minimize the discarding of Atlantic*
 16 *highly migratory species which cannot be re-*
 17 *turned to the sea alive; and*

18 *“(E) promote, to the extent practicable, im-*
 19 *plementation of scientific research programs that*
 20 *include the tag and release of Atlantic highly mi-*
 21 *gratory species.”.*

22 *(h) REVIEW OF SECRETARIAL PLAN.—Section 304, as*
 23 *amended, is amended further by adding at the end the fol-*
 24 *lowing:*

25 *“(h) REVIEW OF SECRETARIAL PLAN.—*

1 “(1)(A) Whenever the Secretary prepares a fish-
2 ery management plan or plan amendment under this
3 section, the Secretary shall immediately—

4 “(i) for a plan or amendment prepared
5 under subsection (c), submit such plan or
6 amendment to the appropriate Council for con-
7 sideration and comment; and

8 “(ii) publish in the Federal Register a no-
9 tice stating that the plan or amendment is avail-
10 able and that written data, views, or comments
11 of interested persons on the plan or amendment
12 may be submitted to the Secretary during the 60-
13 day period beginning on the date the notice is
14 published.

15 “(B) Whenever a plan or amendment is submit-
16 ted under paragraph (1)(A)(i), the appropriate Coun-
17 cil must submit its comments and recommendations,
18 if any, regarding the plan or amendment to the Sec-
19 retary before the close of the 60-day period referred to
20 in subparagraph (A)(ii). After the close of such 60-
21 day period, the Secretary, after taking into account
22 any such comments and recommendations, as well as
23 any views, data, or comments submitted under sub-
24 paragraph (A)(ii), may adopt such plan or amend-
25 ment.

1 “(2) *The Secretary may propose regulations in*
 2 *the Federal Register to implement any plan or*
 3 *amendment prepared by the Secretary. The comment*
 4 *period on proposed regulations shall be 60 days, ex-*
 5 *cept that the Secretary may shorten the comment pe-*
 6 *riod on minor revisions to existing regulations.*

7 “(3) *The Secretary shall promulgate final regu-*
 8 *lations within 30 days after the end of the comment*
 9 *period under paragraph (3). The Secretary must pub-*
 10 *lish in the Federal Register an explanation of any*
 11 *substantive differences between the proposed and final*
 12 *rules. All final regulations must be consistent with the*
 13 *plan, with the national standards and other provi-*
 14 *sions of this Act, and with any other applicable*
 15 *law.”.*

16 **SEC. 111. OTHER REQUIREMENTS AND AUTHORITY.**

17 (a) *Section 305 (18 U.S.C. 1855) is amended—*

18 (1) *by striking the title and subsection (a);*

19 (2) *by redesignating subsection (b) as subsection*
 20 *(f); and*

21 (3) *by inserting the following before subsection*
 22 *(f), as redesignated:*

23 **“SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.**

24 “(a) *GEAR EVALUATION AND NOTIFICATION OF*
 25 *ENTRY.—*

1 “(1) Not later than 18 months after the date of
 2 enactment of the Sustainable Fisheries Act, the Sec-
 3 retary shall publish in the Federal Register, after no-
 4 tice and an opportunity for public comment, a list of
 5 all fisheries

6 “(A) under the authority of each Council
 7 and all fishing gear used in such fisheries, based
 8 on information submitted by the Councils under
 9 section 303(a); and

10 “(B) to which section 302(a)(3) applies and
 11 all fishing gear used in such fisheries.

12 “(2) The Secretary shall include with such list
 13 guidelines for determining when fishing gear or a
 14 fishery is sufficiently different from those listed as to
 15 require notification under paragraph (3).

16 “(3) Effective 180 days after the publication of
 17 such list, no person or vessel shall employ fishing gear
 18 or engage in a fishery not included on such list with-
 19 out giving 90 days advance written notice to the ap-
 20 propriate Council, or the Secretary with respect to a
 21 fishery to which section 302(a)(3) applies. A signed
 22 return receipt shall serve as adequate evidence of such
 23 notice and as the date upon which the 90-day period
 24 begins.

1 “(4) A Council may submit to the Secretary any
 2 proposed changes to such list or such guidelines the
 3 Council deems appropriate. The Secretary shall pub-
 4 lish a revised list, after notice and an opportunity for
 5 public comment, upon receiving any such proposed
 6 changes from a Council.

7 “(5) A Council may request the Secretary to pro-
 8 mulgate emergency regulations under subsection (c) to
 9 prohibit any persons or vessels from using an unlisted
 10 fishing gear or engaging in an unlisted fishery if the
 11 appropriate Council, or the Secretary for fisheries to
 12 which section 302(a)(3) applies, determines that such
 13 unlisted gear or unlisted fishery would compromise
 14 the effectiveness of conservation and management ef-
 15 forts under this Act.

16 “(b) *FISH HABITAT.*—

17 “(1)(A) The Secretary shall, within six months
 18 of the date of enactment of the Sustainable Fisheries
 19 Act, establish guidelines to assist the Councils in the
 20 description and identification of essential fish habitat
 21 in fishery management plans (including adverse im-
 22 pacts on such habitat) and the actions which should
 23 be considered to ensure the conservation and enhance-
 24 ment of such habitat, and set forth a schedule for the

1 *amendment of fishery management plans to include*
2 *the identification of essential fish habitat.*

3 “(B) *The Secretary shall provide each Council*
4 *with recommendations and information regarding*
5 *each fishery under that Council’s authority to assist*
6 *it in the identification of essential fish habitat, the*
7 *adverse impacts on that habitat, and the actions that*
8 *should be considered to ensure the conservation and*
9 *enhancement of that habitat.*

10 “(C) *The Secretary shall review programs ad-*
11 *ministered by the Department of Commerce and en-*
12 *sure that any relevant programs further the conserva-*
13 *tion and enhancement of essential fish habitat.*

14 “(D) *The Secretary shall coordinate with and*
15 *provide information to other Federal agencies to fur-*
16 *ther the conservation and enhancement of essential*
17 *fish habitat.*

18 “(2) *Each Federal agency shall consult with the*
19 *Secretary with respect to any action undertaken, or*
20 *proposed to be undertaken by such agency that may*
21 *adversely affect any essential fish habitat identified*
22 *under this Act.*

23 “(3) *Each Council—*

24 “(A) *may comment on and make rec-*
25 *ommendations to the Secretary and any Federal*

1 *or State agency concerning any activity under-*
 2 *taken, or proposed to be undertaken, by any Fed-*
 3 *eral or State agency that, in the view of the*
 4 *Council, may affect the habitat, including essen-*
 5 *tial fish habitat, of a fishery resource under its*
 6 *authority; and*

7 “(B) *shall comment on and make rec-*
 8 *ommendations to the Secretary and any Federal*
 9 *or State agency concerning any such activity*
 10 *that, in the view of the Council, is likely to sub-*
 11 *stantially affect the habitat, including essential*
 12 *fish habitat, of an anadromous fishery resource*
 13 *under its authority.*

14 “(4)(A) *If the Secretary receives information*
 15 *from a Council or Federal or State agency or deter-*
 16 *mines from other sources that an action undertaken,*
 17 *or proposed to be undertaken by any State or Federal*
 18 *agency would adversely affect any essential fish habi-*
 19 *tat identified under this Act, the Secretary shall rec-*
 20 *ommend to such agency measures that can be taken*
 21 *by such agency to conserve such habitat.*

22 “(B) *Within 30 days after receiving a rec-*
 23 *ommendation under paragraph (4)(A), a Federal*
 24 *agency shall provide a detailed response, in writing,*
 25 *to the commenting Council and the Secretary regard-*

1 *ing the matter. The response shall include a descrip-*
 2 *tion of measures being considered by the agency for*
 3 *avoiding, mitigating, or offsetting the impact of the*
 4 *activity on such habitat. In the case of a response*
 5 *that is inconsistent with the recommendations of the*
 6 *Secretary, the Federal agency shall explain its rea-*
 7 *sons for not following the recommendations.”.*

8 *(b) Section 305(c) (16 U.S.C. 1855(c) is amended by*
 9 *striking paragraph (3) and by inserting the following after*
 10 *paragraph (2):*

11 *“(3) Any emergency regulation which changes an*
 12 *existing fishery management plan shall be treated as*
 13 *an amendment to such plan for the period in which*
 14 *such regulation is in effect. Any emergency regulation*
 15 *promulgated under this subsection—*

16 *“(A) shall be published in the Federal Reg-*
 17 *ister together with the reasons therefor;*

18 *“(B) shall, except as provided in subpara-*
 19 *graph (C), remain in effect for not more than*
 20 *180 days after the date of publication, and may*
 21 *be extended by publication in the Federal Reg-*
 22 *ister for an additional period of not more than*
 23 *180 days, provided the public has had an oppor-*
 24 *tunity to comment on the emergency regulation,*
 25 *and, in the case of a Council recommendation for*

1 *emergency regulations, the Council is actively*
 2 *preparing a fishery management plan, amend-*
 3 *ment, or proposed regulations to address the*
 4 *emergency on a permanent basis;*

5 *“(C) that responds to a public health emer-*
 6 *gency may remain in effect until the cir-*
 7 *cumstances that created the emergency no longer*
 8 *exist, provided that the Secretary of Health and*
 9 *Human Services concurs with the Secretary’s ac-*
 10 *tion and the public has an opportunity to com-*
 11 *ment after the regulation is published; and*

12 *“(D) may be terminated by the Secretary at*
 13 *an earlier date by publication in the Federal*
 14 *Register of a notice of termination, except for*
 15 *emergency regulations promulgated under para-*
 16 *graph (2) in which case such early termination*
 17 *may be made only upon the agreement of the*
 18 *Secretary and the Council concerned.”.*

19 *(c) Section 305(e) is amended by striking “12291,*
 20 *dated February 17, 1981” and inserting “12866, dated Sep-*
 21 *tember 30, 1993”.*

22 *(d) Section 305, as amended, is further amended by*
 23 *adding at the end the following:*

24 *“(g) NEGOTIATED CONSERVATION AND MANAGEMENT*
 25 *MEASURES.—(1)(A) A Council or the Secretary may, in*

1 *accordance with regulations promulgated by the Secretary*
 2 *pursuant to this paragraph, establish a fishery negotiation*
 3 *panel to assist in the development of specific conservation*
 4 *and management measures for a fishery under authority*
 5 *of such Council or the Secretary.*

6 “(B) *No later than 180 days after the enactment of*
 7 *this section, the Secretary shall promulgate regulations es-*
 8 *tablishing procedures, developed in cooperation with the Ad-*
 9 *ministrative Conference of the United States, for the estab-*
 10 *lishment and operation of fishery negotiation panels. Such*
 11 *procedures shall be comparable to the procedures for nego-*
 12 *tiated rulemaking established by subchapter III of chapter*
 13 *5 of title 5, United States Code.*

14 “(2) *Upon receipt of a report containing proposed con-*
 15 *servation and management measures from a negotiation*
 16 *panel convened under this subsection, the report shall be*
 17 *published in the Federal Register for public comment.*

18 “(3) *Nothing in this subsection shall be construed to*
 19 *require either a Council or the Secretary, whichever is ap-*
 20 *propriate, to include all or any portion of a report from*
 21 *a negotiation panel established under this subsection in a*
 22 *fishery management plan or plan amendment for the fish-*
 23 *ery for which the panel was established.*

24 “(h) *CENTRAL REGISTRY SYSTEM FOR LIMITED AC-*
 25 *CESS SYSTEM PERMITS.—*

1 “(1) Within 6 months after the date of enactment
 2 of the Sustainable Fishery Act, the Secretary shall es-
 3 tablish an exclusive central registry system (which
 4 may be administered on a regional basis) for any
 5 limited access system permits established under sec-
 6 tion 303(b)(6) or other Federal law, including indi-
 7 vidual fishing quotas, which shall provide for the reg-
 8 istration of title to, and interests in, such permits, as
 9 well as for procedures for changes in the registration
 10 of title to such permits upon the occurrence of invol-
 11 untary transfers, judicial or nonjudicial foreclosure of
 12 interests, enforcement of judgments thereon, and relat-
 13 ed matters deemed appropriate by the Secretary. Such
 14 registry system shall—

15 “(A) provide a mechanism for filing notice
 16 of a nonjudicial foreclosure or enforcement of a
 17 judgment by which the holder of a senior security
 18 interest acquires or conveys ownership of a per-
 19 mit, and in the event of a nonjudicial fore-
 20 closure, by which the interests of the holders of
 21 junior security interests are released when the
 22 permit is transferred;

23 “(B) provide for public access to the infor-
 24 mation filed under such system, notwithstanding
 25 section 402(b); and

1 “(C) provide such notice and other require-
2 ments of applicable law that the Secretary deems
3 necessary for an effective registry system.

4 “(2) The Secretary shall promulgate such regula-
5 tions as may be necessary to carry out this subsection,
6 after consulting with the Councils and providing an
7 opportunity for public comment. The Secretary is au-
8 thorized to contract with non-federal entities to ad-
9 minister the central registry system.

10 “(3) To be effective and perfected against any
11 person except the transferor, its heirs and devisees,
12 and persons having actual notice thereof, all security
13 interests, and all sales and other transfers of permits
14 described in paragraph (1), shall be registered in
15 compliance with the regulations promulgated under
16 paragraph (2). Such registration shall constitute the
17 exclusive means of perfection of title to, and security
18 interests in, such permits, except for federal tax liens
19 thereon, which shall be perfected exclusively in accord-
20 ance with section 6323 of the Internal Revenue Code
21 of 1986 (26 U.S.C. 6323).

22 “(4) The priority of security interests shall be
23 determined in order of filing, the first filed having the
24 highest priority. A validly-filed security interest shall
25 remain valid and perfected notwithstanding a change

1 *in residence or place of business of the owner of*
 2 *record. For the purposes of this subsection, “security*
 3 *interest” shall include security interests, assignments,*
 4 *liens and other encumbrances of whatever kind.*

5 *“(5) Notwithstanding section 304(d)(1), the Sec-*
 6 *retary may collect a reasonable fee of not more than*
 7 *one-half of one percent of the value of limited access*
 8 *system permits upon registration and transfer to re-*
 9 *cover the costs of administering the central registry*
 10 *system.”.*

11 *(e) REGISTRY TRANSITION.—Security interests on per-*
 12 *mits described under section 305(h)(1) that are effective and*
 13 *perfected by otherwise applicable law on the date of the final*
 14 *regulations implementing section 305(h) shall remain effec-*
 15 *tive and perfected if, within 120 days after such date, the*
 16 *secured party submits evidence satisfactory to the Secretary*
 17 *and in compliance with such regulations of the perfection*
 18 *of such security.*

19 **SEC. 112. PACIFIC COMMUNITY FISHERIES.**

20 *(a) HAROLD SPARCK MEMORIAL COMMUNITY DEVEL-*
 21 *OPMENT PROGRAM.—Section 305, as amended, is amended*
 22 *further by adding at the end:*

23 *“(i) ALASKA AND WESTERN PACIFIC COMMUNITY DE-*
 24 *VELOPMENT PROGRAMS.—*

1 “(1)(A) *The North Pacific Council and the Sec-*
 2 *retary shall establish a western Alaska community de-*
 3 *velopment quota program under which a percentage*
 4 *of the total allowable catch of any Bering Sea fishery*
 5 *is allocated to the program.*

6 “(B) *To be eligible to participate in the western*
 7 *Alaska community development quota program under*
 8 *paragraph (1), a community shall—*

9 “(i) *be located within 50 nautical miles*
 10 *from the baseline from which the breadth of the*
 11 *territorial sea is measured along the Bering Sea*
 12 *coast from the Bering Strait to the western most*
 13 *of the Aleutian Islands, or an island within the*
 14 *Bering Sea;*

15 “(ii) *not be located on the Gulf of Alaska*
 16 *coast of the north Pacific Ocean;*

17 “(iii) *meet criteria developed by the Gov-*
 18 *ernor of Alaska, approved by the Secretary, and*
 19 *published in the Federal Register; and*

20 “(iv) *be certified by the Secretary of the In-*
 21 *terior pursuant to the Alaska Native Claims Set-*
 22 *tlement Act to be a Native village;*

23 “(v) *consist of residents who conduct more*
 24 *than one-half of their current commercial or sub-*

1 *sistence fishing effort in the waters of the Bering*
 2 *Sea and Aleutian Islands management area; and*
 3 “(vi) *not have previously developed harvest-*
 4 *ing or processing capability sufficient to support*
 5 *substantial participation in the groundfish fish-*
 6 *eries in the Bering Sea, unless the community*
 7 *can show that the benefits from an approved*
 8 *Community Development Plan would be the only*
 9 *way for the community to realize a return from*
 10 *previous investments.*

11 “(C)(i) *During the fiscal years for which funds*
 12 *are authorized under section 4, the North Pacific*
 13 *Council may not recommend to the Secretary any*
 14 *fishery management plan, plan amendment, or regu-*
 15 *lation that allocates to the western Alaska community*
 16 *development quota program a percentage of the total*
 17 *allowable catch of any Bering Sea fishery for which,*
 18 *prior to October 1, 1995, the Council had not rec-*
 19 *ommended that a percentage of the total allowable*
 20 *catch be allocated to western Alaska community devel-*
 21 *opment quota programs.*

22 “(ii) *During the fiscal years for which funds are*
 23 *authorized under section 4, with respect to a fishery*
 24 *management plan, plan amendment, or regulation for*
 25 *a Bering Sea fishery that—*

1 “(I) allocates to the western Alaska commu-
 2 nity development quota program a percentage of
 3 the total allowable catch of such fishery; and

4 “(II) was recommended by the North Pa-
 5 cific Council to the Secretary prior to October 1,
 6 1995,

7 the Secretary shall, notwithstanding any expiration
 8 date in such plan, plan amendment, or regulation, al-
 9 locate to the program a percentage of the total allow-
 10 able catch that is no greater than the percentage de-
 11 scribed in such plan or plan amendment.

12 “(D) The Secretary shall deduct from any fees
 13 collected under section 304(d)(2) for fish harvested
 14 under the western Alaska community development
 15 quota program costs incurred by fishing vessels in the
 16 program for observer or reporting requirements which
 17 are in addition to observer or reporting requirements
 18 of other fishing vessels in the fishery in which the al-
 19 location to such program has been made.

20 “(2)(A) The Western Pacific Council and the
 21 Secretary may establish a western Pacific community
 22 development program which may include an alloca-
 23 tion of a percentage of the total catch of any fishery,
 24 limited entry permits, or other quotas related to vessel

1 *size and fishing zones to western Pacific communities*
 2 *that participate in the program.*

3 *“(B) To be eligible to participate in the western*
 4 *Pacific community development program, a commu-*
 5 *nity shall—*

6 *“(i) be located within the Western Pacific*
 7 *Regional Fishery Management Area;*

8 *“(ii) meet criteria developed by the Western*
 9 *Pacific Council, approved by the Secretary and*
 10 *published in the Federal Register, and based on*
 11 *historical fishing practices in and dependence on*
 12 *the fishery, the cultural and social framework*
 13 *relevant to the fishery, and economic barriers to*
 14 *access to the fishery;*

15 *“(iii) consist of community residents who*
 16 *conduct more than one-half of their current com-*
 17 *mercial or subsistence fishing effort in the waters*
 18 *within the Western Pacific Regional Manage-*
 19 *ment Area;*

20 *“(iv) not have previously developed harvest-*
 21 *ing or processing capability sufficient to support*
 22 *substantial participation in the western Pacific*
 23 *Regional Fishery Management Area; and*

1 “(v) develop and submit a Community De-
 2 velopment Plan to the Western Pacific Council
 3 and Secretary.

4 “(C) For the purposes of this subsection—

5 “(i) ‘Western Pacific Regional Management
 6 Area’ means the area under the jurisdiction of
 7 the Western Pacific Council, or an island within
 8 such area; and

9 “(ii) ‘western Pacific community’ means
 10 any community located in the Western Pacific
 11 Regional Management Area where a majority of
 12 the inhabitants are descended from the aborigi-
 13 nal peoples indigenous to the area and in which
 14 traditional fishing practices are or have been
 15 historically used for subsistence or commercial
 16 purposes.

17 “(D) Notwithstanding any other provision of
 18 this Act, the Western Pacific Council shall take into
 19 account traditional indigenous fishing practices in
 20 preparing any fishery management plan.

21 “(E) After the date of enactment of the Sustain-
 22 able Fisheries Act, no Council may recommend a
 23 community development quota program except as pro-
 24 vided in this subsection.”.

1 (b) *WESTERN PACIFIC DEMONSTRATION PROJECTS.*—

2 (1) *The Secretary and Secretary of Interior are authorized*
 3 *to make direct grants to eligible western Pacific commu-*
 4 *nities, as recommended by the Western Pacific Fishery*
 5 *Management Council, for the purpose of establishing not*
 6 *less than three and not more than five fishery demonstra-*
 7 *tion projects to foster and promote traditional indigenous*
 8 *fishing practices, which shall not exceed a total of \$500,000*
 9 *in each fiscal year.*

10 (2) *Demonstration project funded pursuant to this sub-*
 11 *section shall foster and promote the involvement of western*
 12 *Pacific communities in western Pacific fisheries and*
 13 *may—*

14 (A) *identify and apply traditional indigenous*
 15 *fishing practices;*

16 (B) *develop or enhance western Pacific commu-*
 17 *nity-based fishing opportunities; and*

18 (C) *involve research, community education, or*
 19 *the acquisition of materials and equipment necessary*
 20 *to carry any such demonstration project.*

21 (3)(A) *The Western Pacific Fishery Management*
 22 *Council, in consultation with the Secretary shall establish*
 23 *an advisory panel under section 302(g)(2) of the Sustain-*
 24 *able Fisheries Act to evaluate, determine the relative merits*
 25 *of, and annually rank applications for such grants, which*

1 shall consist of not more than eight individuals who are
2 knowledgeable or experienced in traditional indigenous fish-
3 ery practices of western Pacific communities and who are
4 not members or employees of the Western Pacific Fishery
5 Management Council.

6 (B) If the Secretary or Secretary of Interior awards
7 a grant for a demonstration project not in accordance with
8 the rank given to such project by the advisory panel, the
9 Secretary shall provide a detailed written explanation for
10 the reasons thereof.

11 (4) The Western Pacific Fishery Management Council
12 shall, with the assistance of such advisory panel, submit
13 an annual report to the Congress assessing the status and
14 progress of demonstration projects carried out under this
15 subsection.

16 (5) Appropriate Federal agencies may provide tech-
17 nical assistance to western Pacific community-based enti-
18 ties to assist in carrying out demonstration projects under
19 this subsection.

20 (6) For the purposes of this subsection, 'western Pacific
21 community' shall have the same meaning as such term has
22 in section 305(i)(2)(C)(ii) of the Magnuson Fishery Con-
23 servation and Management Act.

1 **SEC. 113. STATE JURISDICTION.**

2 (a) Paragraph (3) of section 306(a) (16 U.S.C.
3 1856(a)) is amended to read as follows:

4 “(3)(A) A State may regulate a fishing vessel
5 outside the boundaries of the State if the fishing vessel
6 is registered under the law of that State, and—

7 “(i) there is no fishery management plan in
8 place for that fishery; or

9 “(ii) if there is a fishery management plan
10 or plan amendment in place for that fishery, the
11 State’s laws and regulations are consistent with
12 the purposes of that fishery management plan or
13 plan amendment.

14 “(B) For the purposes of this paragraph, the
15 term ‘registered under the law of that State’ means
16 that—

17 “(i) the owner, captain, or vessel holds a
18 fishing license, or other document that is a pre-
19 requisite to participating in the fishery, issued
20 by the State;

21 “(ii) the vessel is numbered by the State in
22 accordance with chapter 123 of title 46, United
23 States Code; or

24 “(iii) the documentation of the vessel under
25 chapter 121 of title 46, United States Code, iden-

1 *tifies the vessel's homeport as located in the*
2 *State.”.*

3 *(b) Section 306(b) (16 U.S.C. 1856(b)) is amended by*
4 *adding at the end the following:*

5 *“(3) If the State involved requests that a hearing*
6 *be held pursuant to paragraph (1), the Secretary shall*
7 *conduct such hearing prior to taking any action*
8 *under paragraph (1).*

9 *“(4) For any fishery occurring off Alaska for*
10 *which there is no fishery management plan approved*
11 *and implemented under this Act, or pursuant to a*
12 *fishery management plan under this Act, the State of*
13 *Alaska may enforce its fishing laws and regulations*
14 *in the exclusive economic zone off Alaska, provided*
15 *there is a legitimate State interest in the conservation*
16 *and management of the fishery, until a Federal fish-*
17 *ery management plan is implemented for any such*
18 *fishery which does not allow for such enforcement.*
19 *Fisheries in the exclusive economic zone off Alaska*
20 *currently managed pursuant to a Federal fishery*
21 *management plan shall not be removed from Federal*
22 *management and placed under State authority with-*
23 *out the unanimous consent (except for the Regional*
24 *Director of the National Marine Fisheries Service) of*
25 *the North Pacific Council. The preceding sentence*

1 *shall not be construed to require the North Pacific*
 2 *Council to unanimously vote to continue a fishery*
 3 *management plan under which the State of Alaska is*
 4 *already principally involved in the management or*
 5 *enforcement of a fishery.”.*

6 *(c) Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amend-*
 7 *ed—*

8 *(1) by striking “and” in subparagraph (A);*

9 *(2) by striking the period at the end of subpara-*
 10 *graph (B) and inserting a semicolon and the word*
 11 *“and”; and*

12 *(3) by inserting after subparagraph (B) the fol-*
 13 *lowing:*

14 *“(C) the owner or operator of the vessel sub-*
 15 *mits reports on the tonnage of fish received from*
 16 *vessels of the United States and the locations*
 17 *from which such fish were harvested, in accord-*
 18 *ance with such procedures as the Secretary by*
 19 *regulation shall prescribe.”.*

20 **SEC. 114. PROHIBITED ACTS.**

21 *(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is*
 22 *amended—*

23 *(1) by striking “plan,” and inserting “plan”;*
 24 *and*

1 (2) *by inserting before the semicolon the follow-*
 2 *ing: “, or in the absence of any such plan is smaller*
 3 *than the minimum possession size in effect at the*
 4 *time under the Atlantic States Marine Fisheries Com-*
 5 *mission’s American Lobster Fishery Management*
 6 *Plan (and, for purposes of this clause, if the Secretary*
 7 *withdraws the Federal plan or any successor to that*
 8 *plan, and the Atlantic States Marine Fisheries Com-*
 9 *mission has not implemented a plan to manage the*
 10 *American Lobster Fishery, the minimum possession*
 11 *size in effect at the time the American Lobster Fish-*
 12 *ery Management Plan was withdrawn shall remain*
 13 *in effect until the Atlantic States Marine Fisheries*
 14 *Commission implements a plan that contains a mini-*
 15 *mum possession size)”.*

16 (b) *Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is*
 17 *amended by striking “knowingly steal or without authoriza-*
 18 *tion, to” and inserting “to steal or to negligently and with-*
 19 *out authorization”.*

20 (c) *Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is*
 21 *amended to read as follows:*

22 *“(L) to forcibly assault, resist, oppose, im-*
 23 *pede, intimidate, sexually harass, or interfere*
 24 *with any observer on a vessel under this Act, or*
 25 *any data collector employed by the National Ma-*

1 *rine Fisheries Service or under contract to carry*
 2 *out responsibilities under this Act;”.*

3 *(d) Section 307(1) (16 U.S.C. 1857(1)) is amended—*

4 *(1) by striking “or” at the end of subparagraph*
 5 *(M);*

6 *(2) by striking “pollock.” in subparagraph (N)*
 7 *and inserting “pollock; or”, and*

8 *(3) by adding at the end the following:*

9 *“(O) to knowingly and willfully fail to dis-*
 10 *close or falsely disclose any financial interest as*
 11 *required under section 302(j), or to knowingly*
 12 *vote on a Council decision in violation of section*
 13 *302(j)(7)(A).”.*

14 *(e) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is*
 15 *amended to read as follows:*

16 *“(A) in fishing within the boundaries of*
 17 *any State, except—*

18 *“(i) recreational fishing permitted*
 19 *under section 201(i),*

20 *“(ii) fish processing permitted under*
 21 *section 306(c), or*

22 *“(iii) transshipment at sea of fish prod-*
 23 *ucts within the boundaries of any State in*
 24 *accordance with a permit approved under*
 25 *section 204(b)(6)(A)(ii);”.*

1 (f) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is
 2 amended by striking “204 (b) or (c)” and inserting “204
 3 (b), (c), or (d)”.

4 (f) Section 307(3) (16 U.S.C. 1857(3)) is amended to
 5 read as follows:

6 “(3) for any vessel of the United States, and for
 7 the owner or operator of any vessel of the United
 8 States, to transfer at sea directly or indirectly, or at-
 9 tempt to so transfer at sea, any United States har-
 10 vested fish to any foreign fishing vessel, while such
 11 foreign vessel is within the exclusive economic zone or
 12 within the boundaries of any State except to the ex-
 13 tent that the foreign fishing vessel has been permitted
 14 under section 204(b)(6)(B) or section 306(c) to receive
 15 such fish;”.

16 (g) Section 307(4) (16 U.S.C. 1857(4)) is amended by
 17 inserting “or within the boundaries of any State” after
 18 “zone”.

19 **SEC. 115. CIVIL PENALTIES AND PERMIT SANCTIONS; RE-**
 20 **BUTTABLE PRESUMPTIONS.**

21 (a) Section 308(a) (16 U.S.C. 1858(a)) is amended by
 22 striking “ability to pay,”.

23 (b) The first sentence of section 308(b) (16 U.S.C.
 24 1858(b)) is amended to read as follows: “Any person
 25 against whom a civil penalty is assessed under subsection

1 (a) or against whom a permit sanction is imposed under
 2 subsection (g) (other than a permit suspension for nonpay-
 3 ment of penalty or fine) may obtain review thereof in the
 4 United States district court for the appropriate district by
 5 filing a complaint against the Secretary in such court with-
 6 in 30 days from the date of such order.”.

7 (c) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is
 8 amended by striking the matter from “(C) any” through
 9 “overdue,” and inserting the following: “(C) any amount
 10 in settlement of a civil forfeiture imposed on a vessel or
 11 other property, or any civil penalty or criminal fine im-
 12 posed on a vessel or owner or operator of a vessel or any
 13 other person who has been issued or has applied for a per-
 14 mit under any marine resource law enforced by the Sec-
 15 retary, has not been paid and is overdue,”.

16 (d) Section 310(e) (16 U.S.C. 1860(e)) is amended by
 17 adding at the end the following new paragraph:

18 “(3) For purposes of this Act, it shall be a rebut-
 19 table presumption that any vessel that is shoreward
 20 of the outer boundary of the exclusive economic zone
 21 of the United States or beyond the exclusive economic
 22 zone of any nation, and that has gear on board that
 23 is capable of use for large-scale driftnet fishing, is en-
 24 gaged in such fishing.”.

1 **SEC. 116. ENFORCEMENT.**

2 (a) *The second sentence of section 311(d) (16 U.S.C.*
3 *1861(d)) is amended—*

4 (1) *by striking “Guam, any Commonwealth, ter-*
5 *ritory, or” and inserting “Guam or any”; and*

6 (2) *by inserting a comma before the period and*
7 *the following: “and except that in the case of the*
8 *Northern Mariana Islands, the appropriate court is*
9 *the United States District Court for the District of the*
10 *Northern Mariana Islands”.*

11 (b) *Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amend-*
12 *ed—*

13 (1) *by striking “fishery” each place it appears*
14 *and inserting “marine”;*

15 (2) *by inserting “of not less than 20 percent of*
16 *the penalty collected” after “reward” in subparagraph*
17 *(B), and*

18 (3) *by striking subparagraph (E) and inserting*
19 *the following:*

20 *“(E) claims of parties in interest to prop-*
21 *erty disposed of under section 612(b) of the Tar-*
22 *iff Act of 1930 (19 U.S.C. 1612(b)), as made ap-*
23 *plicable by section 310(c) of this Act or by any*
24 *other marine resource law enforced by the Sec-*
25 *retary, to seizures made by the Secretary, in*
26 *amounts determined by the Secretary to be ap-*

1 *plicable to such claims at the time of seizure;*
 2 *and”.*

3 *(c) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amend-*
 4 *ed to read as follows:*

5 *“(2) Any person found in an administrative or*
 6 *judicial proceeding to have violated this Act or any*
 7 *other marine resource law enforced by the Secretary*
 8 *shall be liable for the cost incurred in the sale, stor-*
 9 *age, care, and maintenance of any fish or other prop-*
 10 *erty lawfully seized in connection with the viola-*
 11 *tion.”.*

12 *(d) Section 311 (16 U.S.C. 1861) is amended by redes-*
 13 *ignating subsection (g) as subsection (i), and by inserting*
 14 *the following after subsection (f):*

15 *“(g) ENFORCEMENT IN THE PACIFIC INSULAR*
 16 *AREAS.—The Secretary, in consultation with the Governors*
 17 *of the Pacific Insular Areas and the Western Pacific Re-*
 18 *gional Fishery Management Council, shall to the extent*
 19 *practicable support cooperative enforcement agreements be-*
 20 *tween Federal and Pacific Insular Area authorities.*

21 *“(h) ANNUAL REPORT ON ENFORCEMENT.—Each year*
 22 *at the time the President’s budget is submitted to the Con-*
 23 *gress, the Secretary and the Secretary of the Department*
 24 *in which the Coast Guard is operating shall, after consulta-*
 25 *tion with the Councils, submit a report on the effectiveness*

1 *of the enforcement of fishery management plans and regula-*
 2 *tions to implement such plans under the jurisdiction of each*
 3 *Council, including—*

4 “(1) *an analysis of the adequacy of Federal per-*
 5 *sonnel and funding resources related to the enforce-*
 6 *ment of fishery management plans and regulations to*
 7 *implement such plans; and*

8 “(2) *recommendations to improve enforcement*
 9 *that should be considered in developing plan amend-*
 10 *ments or regulations implementing such plans.”.*

11 *(e) Section 311 (16 U.S.C. 1861), as amended by sub-*
 12 *section (d), is amended by striking “201 (b), (c),” in sub-*
 13 *section (i)(1), as redesignated, and inserting “201 (b) or*
 14 *(c), or section 204(d),”.*

15 **SEC. 117. NORTH PACIFIC AND NORTHWEST ATLANTIC**
 16 **OCEAN FISHERIES.**

17 *(a) NORTH PACIFIC FISHERIES CONSERVATION.—Sec-*
 18 *tion 313 (16 U.S.C. 1862) is amended—*

19 *(1) by striking “RESEARCH PLAN” in the sec-*
 20 *tion heading and inserting “CONSERVATION”; and*

21 *(2) by adding at the end the following:*

22 “(f) *BYCATCH REDUCTION.—In implementing section*
 23 *303(a)(11) and this section, the North Pacific Council shall*
 24 *recommend conservation and management measures to*
 25 *lower, on an annual basis for a period of not less than four*

1 *years, the total amount of economic discards occurring in*
 2 *the fisheries under its jurisdiction.*

3 “(g) *BYCATCH REDUCTION INCENTIVES.*—(1) *Notwith-*
 4 *standing section 304(d), the North Pacific Council may rec-*
 5 *ommend, and the Secretary may approve, consistent with*
 6 *the provisions of this Act, a system of fees in a fishery to*
 7 *provide incentives to reduce bycatch and bycatch rates; ex-*
 8 *cept that such fees shall not exceed one percent of the esti-*
 9 *mated annual ex-vessel value of the target species in the*
 10 *fishery. Any fees collected shall be deposited in the North*
 11 *Pacific Fishery Observer Fund, and may be made available*
 12 *by the Secretary to offset costs related to the reduction of*
 13 *bycatch in the fishery from which such fees were derived,*
 14 *including conservation and management measures and re-*
 15 *search, and to the State of Alaska to offset costs incurred*
 16 *by the State in the fishery from which such fees were derived*
 17 *and in which the State is directly involved in management*
 18 *or enforcement.*

19 “(2)(A) *Notwithstanding section 303(d), and in addi-*
 20 *tion to the authority provided in section 303(b)(10), the*
 21 *North Pacific Council may recommend, and the Secretary*
 22 *may approve, conservation and management measures*
 23 *which provide allocations of regulatory discards to individ-*
 24 *ual fishing vessels as an incentive to reduce per vessel*
 25 *bycatch and bycatch rates in a fishery, provided that—*

1 “(i) such allocations may not be transferred for
2 monetary consideration and are made only on an an-
3 nual basis; and

4 “(ii) any such conservation and management
5 measures will meet the requirements of subsection (h)
6 and will result in an actual reduction in regulatory
7 discards in the fishery.

8 “(B) The North Pacific Council may recommend re-
9 strictions in addition to the restriction imposed by clause
10 (i) of subparagraph (A) on the transferability of any such
11 allocations, and the Secretary may approve such rec-
12 ommendation.

13 “(h) CATCH MEASUREMENT.—(1) By June 1, 1997,
14 the North Pacific Council shall recommend, and the Sec-
15 retary may approve, consistent with the other provisions
16 of this Act, conservation and management measures to en-
17 sure total catch measurement in each fishery under its ju-
18 risdiction. Such measures shall ensure the accurate enu-
19 meration, at a minimum, of target species, economic dis-
20 cards, and regulatory discards.

21 “(2) To the extent the measures submitted under para-
22 graph (1) do not require United States fish processors and
23 fish processing vessels (as defined in chapter 21 of title 46,
24 United States Code) to weigh fish, the North Pacific Council
25 and Secretary shall submit a plan to the Congress by Janu-

ary 1, 1998, to allow for weighing, including recommendations to assist such processors and processing vessels in acquiring necessary equipment, unless the Council determines that such weighing is not necessary to meet the requirements of this subsection.

“(i) *FULL RETENTION AND UTILIZATION.*—(1) *The North Pacific Council shall submit to the Secretary by June 1, 1999, a report on the advisability of requiring the full retention by fishing vessels and full utilization by United States fish processors of economic discards in fisheries under its jurisdiction if such economic discards, or the mortality of such economic discards, cannot be avoided. The report shall address the projected impacts of such requirements on participants in the fishery.*

“(2) *The report shall address the advisability of measures to minimize processing waste, including standards setting minimum percentages which must be processed for human consumption. For the purpose of the report, ‘processing waste’ means that portion of any fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.*”.

(b) *NORTHEAST ATLANTIC OCEAN FISHERIES.*—Section 314 (16 U.S.C. 1863) is amended by striking “1997” in subsection (a)(4) and inserting “2000”.

1 **SEC. 118. TRANSITION TO SUSTAINABLE FISHERIES.**

2 (a) *The Act is amended by adding at the end of title*
 3 *III the following:*

4 **“SEC. 315. FISHING CAPACITY REDUCTION PROGRAMS.**

5 “(a) *IN GENERAL.—(1) The Secretary, with the ap-*
 6 *proval of the appropriate Council, may conduct a fishing*
 7 *capacity reduction program (referred to in this section as*
 8 *the ‘program’) in a fishery if the Secretary determines*
 9 *that—*

10 “(A) *the program is necessary to prevent or end*
 11 *overfishing, rebuild stocks of fish, or adequate to*
 12 *achieve measurable and significant improvements in*
 13 *the conservation and management of the fishery;*

14 “(B) *the fishery management plan implemented*
 15 *for the fishery—*

16 “(i) *is consistent with the program objec-*
 17 *tive;*

18 “(ii) *will prevent the replacement of fishing*
 19 *capacity removed by the program through a*
 20 *moratorium on new entrants, restrictions on ves-*
 21 *sel upgrades, and other effort control measures*
 22 *and accounting for the full potential capacity of*
 23 *the fleet; and*

24 “(iii) *establishes a specified or target total*
 25 *allowable catch that triggers closure of the fishery*
 26 *or proportional adjustments to reduce catch; and*

1 “(C) *the program is cost-effective and capable of*
2 *repaying any debt obligation incurred under section*
3 *1112 of title XI of the Merchant Marine Act, 1936 (46*
4 *U.S.C. 1271 et seq.).*

5 “(2) *The objective of the program shall be to obtain*
6 *the maximum sustained reduction in fishing capacity at*
7 *the least cost and in a minimum period of time. To achieve*
8 *that objective, the Secretary is authorized to pay the owners*
9 *of—*

10 “(A) *permits authorizing participation in the*
11 *fishery, Provided that such permits are surrendered*
12 *for permanent revocation; or*

13 “(B) *fishing vessels, Provided that any such ves-*
14 *sel is—*

15 “(i) *scrapped; or*

16 “(ii) *through the Secretary of the de-*
17 *partment in which the Coast Guard is oper-*
18 *ating, subjected to title restrictions that per-*
19 *manently prohibit and effectively prevent*
20 *its use in fishing.*

21 “(3) *Participation in the program shall be voluntary,*
22 *but the Secretary shall ensure compliance by all who do*
23 *participate.*

24 “(4) *The Secretary shall consult with the appropriate*
25 *Council, other Federal agencies, appropriate regional au-*

1 *thorities, affected States and fishing communities, partici-*
 2 *pants in the fishery, conservation organizations, and other*
 3 *interested parties throughout the development and imple-*
 4 *mentation of any program.*

5 “(b) *PROGRAM FUNDING.*—(1) *The program may be*
 6 *funded by any combination of amounts—*

7 “(A) *available under clause (iv) of section*
 8 *2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.A.*
 9 *713c–3(b)(1)(A); Saltonstall-Kennedy Act);*

10 “(B) *appropriated for fisheries disaster relief*
 11 *under section 316 of this Act or section 308 of the*
 12 *Interjurisdictional Fisheries Act (16 U.S.C. 4107);*

13 “(C) *provided by an industry fee system under*
 14 *this section and in accordance with section 1112 of*
 15 *title XI of the Merchant Marine Act, 1936; and*

16 “(D) *provided from any State or other public*
 17 *sources and private or nonprofit organizations.*

18 “(2) *All funds for the program, including any fees es-*
 19 *tablished under subsection (c), shall be paid into the fishing*
 20 *capacity reduction fund established under section 1112 of*
 21 *title XI of the Merchant Marine Act, 1936.*

22 “(c) *INDUSTRY FEE SYSTEM.*—(1)(A) *If an industry*
 23 *fee system is necessary to fund the program, the Secretary,*
 24 *with the approval of the appropriate Council, may conduct*

1 a referendum on such system. Prior to the referendum, the
 2 Secretary, in consultation with the Council, shall—

3 “(i) identify, to the extent practicable, and no-
 4 tify all permit or vessel owners who would be affected
 5 by the program and who meet eligibility requirements
 6 for participation in the referendum; and

7 “(ii) make available to such owners information
 8 about the industry fee system describing the schedule
 9 and procedures for the referendum, the proposed pro-
 10 gram, and the amount and duration and any other
 11 terms and conditions of the fee system.

12 “(B) The industry fee system shall be considered ap-
 13 proved if the referendum votes which are cast in favor of
 14 the proposed system constitute a two-thirds majority of the
 15 participants voting.

16 “(2) Notwithstanding section 304(d) and consistent
 17 with an approved industry fee system, the Secretary is au-
 18 thorized to establish such a system to fund the program and
 19 repay debt obligations incurred pursuant to section 1112
 20 of title XI of the Merchant Marine Act, 1936. The fees for
 21 a program under this section shall—

22 “(A) be established by the Secretary and adjusted
 23 from time to time as the Secretary determines nec-
 24 essary to ensure the availability of sufficient funds to
 25 repay such debt obligations;

1 “(B) not exceed 5 percent of the gross sale pro-
 2 ceeds of all fish landed from the fishery for which the
 3 program is established;

4 “(C) be deducted by the first ex-vessel fish pur-
 5 chaser from the gross fish sales proceeds otherwise
 6 payable to the seller and accounted for and forwarded
 7 by such fish purchasers to the Secretary in such man-
 8 ner as the Secretary may establish; and

9 “(D) be in effect only until such time as the debt
 10 obligation has been fully paid.

11 “(d) *IMPLEMENTATION PLAN.*—(1) *The Secretary, in*
 12 *consultation with the appropriate Council and other inter-*
 13 *ested parties, shall prepare and publish in the Federal Reg-*
 14 *ister for a 60-day public comment period, an implementa-*
 15 *tion plan for each program. The implementation plan*
 16 *shall—*

17 “(A) define criteria for determining types and
 18 numbers of vessels which are eligible for participation
 19 in the program taking into account characteristics of
 20 the fishery, the requirements of applicable fishery
 21 management plans, the needs of fishing communities,
 22 any strategy developed under section 316, and the
 23 need to minimize program costs; and

24 “(B) establish procedures for program participa-
 25 tion (such as submission of owner bid under an auc-

1 *tion system or fair market-value assessment) includ-*
 2 *ing any terms and conditions for participation which*
 3 *the Secretary deems to be reasonably necessary to*
 4 *meet the goals of the program;*

5 *“(2) During the 60-day public comment period—*

6 *“(A) the Secretary shall conduct a public*
 7 *hearing in each State affected by the program;*
 8 *and*

9 *“(B) the appropriate Council shall submit*
 10 *its comments and recommendations, if any, re-*
 11 *garding the plan and regulations.*

12 *“(3) Within 45 days after the close of the public com-*
 13 *ment period, the Secretary, in consultation with the appro-*
 14 *priate Council, shall analyze the public comment received*
 15 *and publish in the Federal Register a final implementation*
 16 *plan for the program and regulations for its implementa-*
 17 *tion. The Secretary may not adopt a final implementation*
 18 *plan involving industry fees or debt obligation unless an*
 19 *industry fee system has been approved by a referendum*
 20 *under this section.”.*

21 *(b) The Secretary of Commerce shall establish a task*
 22 *force comprised of interested parties to study and report*
 23 *to the Committee on Commerce, Science, and Transpor-*
 24 *tation of the Senate and the Committee on Resources of the*
 25 *House of Representatives within two years of the date of*

1 *enactment of this Act on the role of the Federal government*
 2 *in—*

3 (1) *subsidizing the expansion and contraction of*
 4 *fishing capacity in fishing fleets managed under the*
 5 *Magnuson Fishery Conservation and Management*
 6 *Act; and*

7 (2) *otherwise influencing the aggregate capital*
 8 *investments in fisheries.*

9 (c) *The Act, as amended by subsection (a), is amended*
 10 *by adding at the end of title III the following:*

11 **“SEC. 316. TRANSITION TO SUSTAINABLE FISHERIES.**

12 “(a) *SUSTAINABLE DEVELOPMENT STRATEGY.—(1) At*
 13 *the discretion of the Secretary or at the request of the Gov-*
 14 *ernor of an affected State or a fishing community, the Sec-*
 15 *retary, in consultation with the Councils and Federal agen-*
 16 *cies, as appropriate, may work with regional authorities,*
 17 *affected States, fishing communities, the fishing industry,*
 18 *conservation organizations, and other interested parties, to*
 19 *develop a sustainable development strategy for any fishery*
 20 *identified as overfished under section 304(d) or determined*
 21 *to be a commercial fishery failure under this section or any*
 22 *other Federal fishery for which a fishery management plan*
 23 *is being developed or amended under section 303.*

24 “(2) *Such sustainable development strategy shall—*

1 “(A) develop a balanced and comprehensive long-
2 term plan to guide the transition to a sustainable
3 fishery and the development of fishery management
4 plan under section 303 or a fishery rebuilding effort
5 under section 304(d) which—

6 “(i) takes into consideration the economic,
7 social, and environmental factors affecting the
8 fishery;

9 “(ii) identifies alternative economic oppor-
10 tunities; and

11 “(iii) establishes long-term objectives for the
12 fishery including vessel types and sizes, harvest-
13 ing and processing capacity, and optimal fleet
14 size;

15 “(B) identify Federal and State programs which
16 can be used to provide assistance to fishing commu-
17 nities during development and implementation of a
18 fishery recovery effort; and

19 “(C) establish procedures to implement such a
20 plan and facilitate consensus and coordination in re-
21 gional decision-making;

22 “(3) The Secretary shall complete and submit to the
23 Congress a report on any sustainable development strategy
24 developed under this section within 6 months after it is de-
25 veloped and annually thereafter.

1 “(b) *FISHERIES DISASTER RELIEF.*—(1) *At the dis-*
 2 *cretion of the Secretary or at the request of the Governor*
 3 *of an affected State or a fishery community, the Secretary*
 4 *shall determine whether there is a commercial fishery fail-*
 5 *ure due to a fishery resource disaster as a result of—*

6 “(A) *natural causes;*

7 “(B) *man-made causes beyond the control of fish-*
 8 *ery managers to mitigate through conservation and*
 9 *management measures; or*

10 “(C) *undetermined causes.*

11 “(2) *Upon the determination under paragraph (1) that*
 12 *there is a commercial fishery failure, the Secretary is au-*
 13 *thorized to make sums available to be used by the affected*
 14 *State, fishing community, or by the Secretary in coopera-*
 15 *tion with the affected State or fishing community for assess-*
 16 *ing the economic and social effects of the commercial fishery*
 17 *failure, or any activity that the Secretary determines is ap-*
 18 *propriate to restore the fishery or prevent a similar failure*
 19 *in the future and to assist a fishing community affected*
 20 *by such failure. Before making funds available for an activ-*
 21 *ity authorized under this section, the Secretary shall make*
 22 *a determination that such activity will not expand the size*
 23 *or scope of the commercial fishery failure into other fisheries*
 24 *or other geographic regions.*

1 “(3) *The Federal share of the cost of any activity car-*
 2 *ried out under the authority of this section shall not exceed*
 3 *75 percent of the cost of that activity.*

4 “(4) *There are authorized to be appropriated to the*
 5 *Secretary such sums as are necessary for each of the fiscal*
 6 *years 1995, 1996, 1997, 1998, 1999, and 2000.”.*

7 *(d) Section 2(b)(1)(A) of the Act of August 11, 1939*
 8 *(15 U.S.C. 713c3(b)(1)(A)) is amended—*

9 *(1) by striking “and” at the end of clause (ii);*

10 *(2) by striking the period at the end of clause*

11 *(iii) and inserting a semicolon and the word “and”;*

12 *and*

13 *(3) by adding at the end the following new*

14 *clause:*

15 *“(iv) to fund the Federal share of a buy-out*

16 *program established under section 315(b) of the*

17 *Magnuson Fishery Conservation and Manage-*

18 *ment Act; and”.*

19 ***TITLE II—FISHERY MONITORING***
 20 ***AND RESEARCH***

21 ***SEC. 201. CHANGE OF TITLE.***

22 *The heading of title IV (16 U.S.C. 1881 et seq.) is*

23 *amended to read as follows:*

1 “*TITLE IV—FISHERY MONITORING AND*
 2 *RESEARCH*”.

3 **SEC. 202. REGISTRATION AND DATA MANAGEMENT.**

4 *Title IV (16 U.S.C. 1881 et seq.) is amended by insert-*
 5 *ing after the title heading the following:*

6 **“SEC. 401. REGISTRATION AND DATA MANAGEMENT.**

7 “(a) *STANDARDIZED FISHING VESSEL REGISTRATION*
 8 *AND DATA MANAGEMENT SYSTEM.—The Secretary shall, in*
 9 *cooperation with the Secretary of the department in which*
 10 *the Coast Guard is operating, the States, the Councils, and*
 11 *Marine Fisheries Commissions, develop recommendations*
 12 *for implementation of a standardized fishing vessel registra-*
 13 *tion and data management system on a regional basis. The*
 14 *proposed system shall be developed after consultation with*
 15 *interested governmental and nongovernmental parties and*
 16 *shall—*

17 “(1) *be designed to standardize the requirements*
 18 *of vessel registration and data collection systems re-*
 19 *quired by this Act, the Marine Mammal Protection*
 20 *Act (16 U.S.C. 1361 et seq.), and any other marine*
 21 *resource law implemented by the Secretary, and, with*
 22 *the permission of a State, any marine resource law*
 23 *implemented by such State;*

1 “(2) integrate programs under existing fishery
2 management plans into a nonduplicative data collec-
3 tion and management system;

4 “(3) avoid duplication of existing state, tribal, or
5 federal systems (other than a federal system under
6 paragraph (1)) and utilize, to the maximum extent
7 practicable, information collected from existing sys-
8 tems;

9 “(4) provide for implementation through cooper-
10 ative agreements with, appropriate State, regional, or
11 tribal entities and Marine Fisheries Commissions;

12 “(5) provide for authorization of funding (subject
13 to appropriations) to assist appropriate State, re-
14 gional, or tribal entities and Marine Fisheries Com-
15 missions in implementation;

16 “(6) establish standardized units of measure-
17 ment, nomenclature, and formats for the collection
18 and submission of information;

19 “(7) minimize the paperwork required for vessels
20 registered under the system;

21 “(8) include all species of fish within the geo-
22 graphic areas of authority of the Councils and all
23 fishing vessels including vessels carrying a passenger
24 for hire engaged in recreational fishing, except for

1 *private recreational fishing vessels used exclusively for*
 2 *pleasure;*

3 *“(9) require United States fish processors, and*
 4 *fish dealers and other first ex-vessel purchasers of fish*
 5 *that are subject to the proposed system to submit data*
 6 *(other than economic data) which may be necessary*
 7 *to meet the goals of the proposed system; and*

8 *“(10) prescribe procedures necessary to ensure—*

9 *“(A) the confidentiality of information col-*
 10 *lected under this section in accordance with sec-*
 11 *tion 402(b); and*

12 *“(B) the timely release or availability to the*
 13 *public of complete and accurate information col-*
 14 *lected under this section.*

15 *“(b) FISHING VESSEL REGISTRATION.—The registra-*
 16 *tion system should, at a minimum, obtain the following in-*
 17 *formation for each fishing vessel—*

18 *“(1) the name and official number or other iden-*
 19 *tification, together with the name and address of the*
 20 *owner or operator or both;*

21 *“(2) gross tonnage, vessel capacity, type and*
 22 *quantity of fishing gear, mode of operation (catcher,*
 23 *catcher processor or other), and such other pertinent*
 24 *information with respect to vessel characteristics as*
 25 *the Secretary may require; and*

1 “(3) *identification (by species, gear type, geo-*
 2 *graphic area of operations, and season) of the fish-*
 3 *eries in which the fishing vessel participates.*

4 “(c) *FISHERY INFORMATION.—The data management*
 5 *system should, at a minimum, provide basic fisheries per-*
 6 *formance data for each fishery, including—*

7 “(1) *the number of vessels participating in the*
 8 *fishery including vessels carrying a passenger for hire*
 9 *engaged in recreational fishing;*

10 “(2) *the time period in which the fishery occurs;*

11 “(3) *the approximate geographic location, or of-*
 12 *ficial reporting area where the fishery occurs;*

13 “(4) *a description of fishing gear used in the*
 14 *fishery, including the amount and type of such gear*
 15 *and the appropriate unit of fishery effort; and*

16 “(5) *other such data as required under subsection*
 17 *303(a)(5).*

18 “(d) *DEFINITION.—For the purposes of this section, the*
 19 *term ‘passenger for hire’ shall have the same meaning as*
 20 *the definition for such term in section 2102(21a) of title*
 21 *46, United States Code.*

22 “(e) *USE OF REGISTRATION.—Any registration under*
 23 *this section shall not be considered a permit for the purposes*
 24 *of this Act, and the Secretary may not revoke, suspend,*
 25 *deny, or impose any other conditions or restrictions on any*

1 *such registration or the use of such registration under this*
2 *Act.*

3 “(f) *PUBLIC COMMENT.*—*Within one year after the*
4 *date of enactment of the Sustainable Fisheries Act, the Sec-*
5 *retary shall publish in the Federal Register for a 60-day*
6 *public comment period, a proposal that would provide for*
7 *implementation of a standardized fishing vessel registration*
8 *and data collection system that meets the requirements of*
9 *subsections (a) through (c). The proposal shall include—*

10 “(1) *a description of the arrangements for con-*
11 *sultation and cooperation with the department in*
12 *which the Coast Guard is operating, the States, the*
13 *Councils, Marine Fisheries Commissions, the fishing*
14 *industry and other interested parties; and*

15 “(2) *any proposed regulations or legislation nec-*
16 *essary to implement the proposal.*

17 “(g) *CONGRESSIONAL TRANSMITTAL.*—*Within 60 days*
18 *after the end of the comment period and after consideration*
19 *of comments received under subsection (d), the Secretary*
20 *shall transmit to the Committee on Commerce, Science, and*
21 *Transportation of the Senate and the Committee on Re-*
22 *sources of the House of Representatives a proposal for im-*
23 *plementation of a national fishing vessel registration system*
24 *that includes—*

1 “(1) any modifications made after comment and
2 *consultation*;

3 “(2) a proposed implementation schedule; and

4 “(3) recommendations for any such additional
5 *legislation as the Secretary considers necessary or de-*
6 *sirable to implement the proposed system.*

7 “(h) *REPORT TO CONGRESS.*—*Within 15 months after*
8 *the date of enactment of the Sustainable Fisheries Act, the*
9 *Secretary shall report to Congress on the need to include*
10 *private recreational fishing vessels used exclusively for*
11 *pleasure into a national fishing vessel registration and data*
12 *collection system. In preparing its report, the Secretary*
13 *shall cooperate with the Secretary of the department in*
14 *which the Coast Guard is operating, the States, the Coun-*
15 *cils, and Marine Fisheries Commissions, and consult with*
16 *governmental and nongovernmental parties.”.*

17 **SEC. 203. DATA COLLECTION.**

18 *Section 402 is amended to read as follows:*

19 **“SEC. 402. DATA COLLECTION.**

20 “(a) *COUNCIL REQUESTS.*—*If a Council determines*
21 *that additional information and data (other than informa-*
22 *tion and data that would disclose proprietary or confiden-*
23 *tial commercial or financial information regarding fishing*
24 *operations or fish processing operations) would be beneficial*
25 *for developing, implementing, or revising a fishery manage-*

1 ment plan or for determining whether a fishery is in need
 2 of management, the Council may request that the Secretary
 3 implement a data collection program for the fishery which
 4 would provide the types of information and data (other
 5 than information and data that would disclose proprietary
 6 or confidential commercial or financial information regard-
 7 ing fishing operations or fish processing operations) speci-
 8 fied by the Council. The Secretary shall approve such a data
 9 collection program if he determines that the need is justi-
 10 fied, and shall promulgate regulations to implement the
 11 program within 60 days after such determination is made.
 12 If the Secretary determines that the need for a data collec-
 13 tion program is not justified, the Secretary shall inform
 14 the Council of the reasons for such determination in writ-
 15 ing. The determinations of the Secretary under this sub-
 16 section regarding a Council request shall be made within
 17 a reasonable period of time after receipt of that request.

18 “(b) *CONFIDENTIALITY OF INFORMATION.*—(1) Any
 19 information submitted to the Secretary by any person in
 20 compliance with any requirement under this Act shall be
 21 confidential and shall not be disclosed, except—

22 “(A) to Federal employees and Council employ-
 23 ees who are responsible for fishery management plan
 24 development and monitoring;

1 “(B) to State or Marine Fisheries Commission
 2 employees pursuant to an agreement with the Sec-
 3 retary that prevents public disclosure of the identity
 4 or business of any person;

5 “(C) when required by court order;

6 “(D) when such information is used to verify
 7 catch under an individual fishing quota system;

8 “(E) unless the Secretary has obtained written
 9 authorization from the person submitting such infor-
 10 mation to release such information and such release
 11 does not violate other requirements of this subsection;
 12 or

13 “(F) that observer data collected under the North
 14 Pacific Research Plan may be released as specified for
 15 weekly summary bycatch data identified by vessel,
 16 and haul-specific bycatch data without vessel identi-
 17 fication.

18 Nothing in this paragraph prevents the use by the Sec-
 19 retary, or (with the approval of the Secretary) the Council,
 20 for conservation and management purposes information
 21 submitted in compliance with regulations promulgated
 22 under this Act, or the use, release, or publication of bycatch
 23 data pursuant to paragraph (1)(F).

24 “(2) The Secretary shall, by regulation, prescribe such
 25 procedures as may be necessary to preserve such confiden-

1 tiality, except that the Secretary may release or make pub-
 2 lic any such information in any aggregate or summary
 3 form which does not directly or indirectly disclose the iden-
 4 tity or business of any person who submits such informa-
 5 tion. Nothing in this subsection shall be interpreted or con-
 6 strued to prevent the use for conservation and management
 7 purposes by the Secretary, or with the approval of the Sec-
 8 retary, the Council, of any information submitted in com-
 9 pliance with regulations promulgated under this Act or the
 10 use, release, or publication of bycatch data pursuant to
 11 paragraph (1)(F).

12 “(c) *RESTRICTION ON USE OF CERTAIN DATA.*—(1)
 13 *The Secretary shall promulgate regulations to restrict the*
 14 *use, in civil enforcement or criminal proceedings under this*
 15 *Act, the Marine Mammal Protection Act of 1972 (16 U.S.C.*
 16 *1361 et seq.), or the Endangered Species Act (16 U.S.C.*
 17 *1531 et seq.), of information collected by voluntary fishery*
 18 *data collectors, including sea samplers, while aboard any*
 19 *vessel for conservation and management purposes if the*
 20 *presence of such a fishery data collector aboard is not re-*
 21 *quired by any of such Acts or regulations thereunder.*

22 “(2) *The Secretary may not require the submission of*
 23 *a Federal or State income tax return or statement as a pre-*
 24 *requisite for issuance of a Federal fishing permit until such*
 25 *time as the Secretary has promulgated regulations to ensure*

1 *the confidentiality of information contained in such return*
 2 *or statement, to limit the information submitted to that nec-*
 3 *essary to achieve a demonstrated conservation and manage-*
 4 *ment purpose, and to provide appropriate penalties for vio-*
 5 *lation of such regulations.*

6 “(d) *CONTRACTING AUTHORITY.*—*In case of a pro-*
 7 *gram for which—*

8 “(1) *the recipient of a grant, contract, or other*
 9 *financial assistance is specified by statute to be, or*
 10 *has customarily been, a State, Council, or a Marine*
 11 *Fisheries Commission; or*

12 “(2) *the Secretary has entered into a cooperative*
 13 *agreement with a State, Council, or Marine Fisheries*
 14 *Commission,*

15 *such financial assistance may be provided by the Secretary*
 16 *to that recipient on a sole-source basis, notwithstanding*
 17 *any other provision of law.*

18 “(e) *RESOURCE ASSESSMENTS.*—(1) *The Secretary*
 19 *may use the private sector to provide vessels, equipment,*
 20 *and services necessary to survey the fishery resources of the*
 21 *United States when the arrangement will yield statistically*
 22 *reliable results.*

23 “(2) *The Secretary, in consultation with the appro-*
 24 *priate Council and the fishing industry—*

1 “(A) may structure competitive solicitations
 2 under paragraph (1) so as to compensate a contractor
 3 for a fishery resources survey by allowing the contrac-
 4 tor to retain for sale fish harvested during the survey
 5 voyage; and

6 “(B) in the case of a survey during which the
 7 quantity or quality of fish harvested is not expected
 8 to be adequately compensatory, may structure those
 9 solicitations so as to provide that compensation by
 10 permitting the contractor to harvest on a subsequent
 11 voyage and retain for sale a portion of the allowable
 12 catch of the surveyed fishery.

13 “(3) The Secretary shall undertake efforts to expand
 14 annual fishery resource assessments in all regions of the Na-
 15 tion.”.

16 **SEC. 204. OBSERVERS.**

17 Section 403 is amended to read as follows:

18 **“SEC. 403. OBSERVERS.**

19 “(a) *GUIDELINES FOR CARRYING OBSERVERS.—*
 20 *Within one year of the date of enactment of the Sustainable*
 21 *Fisheries Act, the Secretary shall promulgate regulations,*
 22 *after notice and public comment, for fishing vessels that*
 23 *carry observers. The regulations shall include guidelines for*
 24 *determining—*

1 “(1) *when a vessel is not required to carry an*
2 *observer on board because the facilities of such vessel*
3 *for the quartering of an observer, or for carrying out*
4 *observer functions, are so inadequate or unsafe that*
5 *the health or safety of the observer or the safe oper-*
6 *ation of the vessel would be jeopardized; and*

7 “(2) *actions which vessel owners or operators*
8 *may reasonably be required to take to render such fa-*
9 *cilities adequate and safe.*

10 “(b) *TRAINING.—The Secretary, in cooperation with*
11 *the appropriate States and the National Sea Grant College*
12 *Program, shall—*

13 “(1) *establish programs to ensure that each ob-*
14 *server receives adequate training in collecting and*
15 *analyzing data necessary for the conservation and*
16 *management purposes of the fishery to which such ob-*
17 *server is assigned; and*

18 “(2) *require that an observer demonstrate com-*
19 *petence in fisheries science and statistical analysis at*
20 *a level sufficient to enable such person to fulfill the*
21 *responsibilities of the position;*

22 “(3) *ensure that an observer has received ade-*
23 *quate training in basic vessel safety; and*

1 “(4) make use of university training facilities
2 and resources, where possible, in carrying out this
3 subsection.

4 “(c) *WAGES AS MARITIME LIENS.*— *Claims for observ-*
5 *ers’ wages shall be considered maritime liens against the*
6 *vessel and be accorded the same priority as seamen’s liens*
7 *under admiralty and general maritime law.*

8 “(d) *OBSERVER STATUS.*—(1) *An observer on a vessel*
9 *and under contract to carry out responsibilities under this*
10 *Act or the Marine Mammal Protection Act of 1972 (16*
11 *U.S.C. 1361 et seq.) shall be deemed to be a Federal em-*
12 *ployee for the purpose of compensation for work injuries*
13 *under the Federal Employee Compensation Act (5 U.S.C.*
14 *8101 et seq.)*

15 “(2) *Paragraph (1) does not apply if the observer is*
16 *engaged by the owner, master, or individual in charge of*
17 *the vessel to perform any duties in service to the vessel.”.*

18 **SEC. 205. FISHERIES RESEARCH.**

19 *Section 404 is amended to read as follows:*

20 **“SEC. 404. FISHERIES RESEARCH.**

21 “(a) *IN GENERAL.*—*The Secretary shall initiate and*
22 *maintain, in cooperation with the Councils, a comprehen-*
23 *sive program of fishery research to carry out and further*
24 *the purposes, policy, and provisions of this Act. Such pro-*
25 *gram shall be designed to acquire knowledge and informa-*

1 *tion, including statistics, on fishery conservation and man-*
 2 *agement and on the economics of the fisheries.*

3 “(b) *STRATEGIC PLAN.*— *Within one year after the*
 4 *date of enactment of the Sustainable Fisheries Act, and at*
 5 *least every 3 years thereafter, the Secretary shall develop*
 6 *and publish in the Federal Register a strategic plan for*
 7 *fisheries research for the five years immediately following*
 8 *such publication. The plan shall—*

9 “(1) *identify and describe a comprehensive pro-*
 10 *gram with a limited number of priority objectives for*
 11 *research in each of the areas specified in subsection*
 12 *(c);*

13 “(2) *indicate the goals and timetables for the*
 14 *program described in paragraph (1); and*

15 “(3) *provide a role for commercial fishermen in*
 16 *such research, including involvement in field testing.*

17 “(4) *provide for collection and dissemination, in*
 18 *a timely manner, of complete and accurate data con-*
 19 *cerning fishing activities, catch, effort, stock assess-*
 20 *ments, and other research conducted under this sec-*
 21 *tion.*

22 “(c) *AREAS OF RESEARCH.*—*The areas of research re-*
 23 *ferred to in subsection (a) are as follows:*

24 “(1) *Research to support fishery conservation*
 25 *and management, including but not limited to, re-*

1 *search on the economics of fisheries and biological re-*
 2 *search concerning the abundance and life history pa-*
 3 *rameters of stocks of fish, the interdependence of fish-*
 4 *eries or stocks of fish, the identification of essential*
 5 *fish habitat, the impact of pollution on fish popu-*
 6 *lations, the impact of wetland and estuarine degrada-*
 7 *tion, and other factors affecting the abundance and*
 8 *availability of fish.*

9 *“(2) Conservation engineering research, includ-*
 10 *ing the study of fish behavior and the development*
 11 *and testing of new gear technology and fishing tech-*
 12 *niques to minimize bycatch and any adverse effects on*
 13 *essential fish habitat and promote efficient harvest of*
 14 *target species.*

15 *“(3) Information management research, includ-*
 16 *ing the development of a fishery information base and*
 17 *an information management system that will permit*
 18 *the full use of data in the support of effective fishery*
 19 *conservation and management.*

20 *“(d) PUBLIC NOTICE.—In developing the plan re-*
 21 *quired under subsection (a), the Secretary shall consult with*
 22 *relevant Federal, State, and international agencies, sci-*
 23 *entific and technical experts, and other interested persons,*
 24 *public and private, and shall publish a proposed plan in*
 25 *the Federal Register for the purpose of receiving public com-*

1 *ment on the plan. The Secretary shall ensure that affected*
 2 *commercial fishermen are actively involved in the develop-*
 3 *ment of the portion of the plan pertaining to conservation*
 4 *engineering research. Upon final publication in the Federal*
 5 *Register, the plan shall be submitted by the Secretary to*
 6 *the Committee on Commerce, Science, and Transportation*
 7 *of the Senate and the Committee on Resources of the House*
 8 *of Representatives.”.*

9 **SEC. 206. INCIDENTAL HARVEST RESEARCH.**

10 *Section 405 is amended to read as follows:*

11 **“SEC. 405. INCIDENTAL HARVEST RESEARCH.**

12 *“(a) COLLECTION OF DATA.— Within 9 months after*
 13 *the date of enactment of the Sustainable Fisheries Act, the*
 14 *Secretary shall, after consultation with the Gulf of Mexico*
 15 *Fishery Management Council and South Atlantic Fishery*
 16 *Management Council, conclude the collection of data in the*
 17 *program to assess the impact on fishery resources of inci-*
 18 *dental harvest by the shrimp trawl fishery within the au-*
 19 *thority of such Councils. Within the same time period, the*
 20 *Secretary shall make available to the public aggregated*
 21 *summaries of data collected prior to June 30, 1994 under*
 22 *such program.*

23 *“(b) IDENTIFICATION OF STOCK.—The program con-*
 24 *cluded pursuant to subsection (a) shall provide for the iden-*
 25 *tification of stocks of fish which are subject to significant*

1 *incidental harvest in the course of normal shrimp trawl*
 2 *fishing activity.*

3 “(c) *COLLECTION AND ASSESSMENT OF SPECIFIC*
 4 *STOCK DATA.*— *For stocks of fish identified pursuant to*
 5 *subsection (b), with priority given to stocks which (based*
 6 *upon the best available scientific information) are consid-*
 7 *ered to be overfished, the Secretary shall conduct—*

8 “(1) *a program to collect and evaluate data on*
 9 *the nature and extent (including the spatial and tem-*
 10 *poral distribution) of incidental mortality of such*
 11 *stocks as a direct result of shrimp trawl fishing ac-*
 12 *tivities;*

13 “(2) *an assessment of the status and condition of*
 14 *such stocks, including collection of information which*
 15 *would allow the estimation of life history parameters*
 16 *with sufficient accuracy and precision to support*
 17 *sound scientific evaluation of the effects of various*
 18 *management alternatives on the status of such stocks;*
 19 *and*

20 “(3) *a program of data collection and evaluation*
 21 *for such stocks on the magnitude and distribution of*
 22 *fishing mortality and fishing effort by sources of fish-*
 23 *ing mortality other than shrimp trawl fishing activ-*
 24 *ity.*

1 “(d) *BYCATCH REDUCTION PROGRAM.*—Not later than
2 twelve months after the enactment of the Sustainable Fish-
3 eries Act, the Secretary shall, in cooperation with affected
4 interests, and based upon the best scientific information
5 available, complete a program to—

6 “(1) develop technological devices and other
7 changes in fishing operations necessary and appro-
8 priate to minimize the incidental mortality of
9 bycatch in the course of shrimp trawl activity to the
10 extent practicable, taking into account the level of
11 bycatch mortality in the fishery on November 28,
12 1990;

13 “(2) evaluate the ecological impacts and the ben-
14 efits and costs of such devices and changes in fishing
15 operations; and

16 “(3) assess whether it is practicable to utilize
17 bycatch which is not avoidable.

18 “(e) *REPORT TO CONGRESS.*—The Secretary shall,
19 within one year of completing the programs required by this
20 section, submit a detailed report on the results of such pro-
21 grams to the Committee on Commerce, Science, and Trans-
22 portation of the Senate and the Committee on Resources
23 of the House of Representatives.

24 “(f) *IMPLEMENTATION CRITERIA.*— Any conservation
25 and management measure implemented under this Act to

1 *reduce the incidental mortality of bycatch in the course of*
 2 *shrimp trawl fishing must be consistent with—*

3 “(1) *measures applicable to fishing throughout*
 4 *the range of the bycatch species concerned; and*

5 “(2) *the need to avoid any serious adverse envi-*
 6 *ronmental impacts on such bycatch species or the*
 7 *ecology of the affected area.”.*

8 **SEC. 207. MISCELLANEOUS RESEARCH.**

9 (a) *FISHERIES ECOSYSTEM MANAGEMENT RE-*
 10 *SEARCH.—Section 406 (16 U.S.C. 1882) is amended to read*
 11 *as follows:*

12 **“SEC. 406. FISHERIES ECOSYSTEM MANAGEMENT RE-**
 13 **SEARCH.**

14 “(a) *ESTABLISHMENT OF PANEL.—Not later than 180*
 15 *days after the enactment of the Sustainable Fisheries Act,*
 16 *the Secretary shall establish a fisheries ecosystem manage-*
 17 *ment advisory panel under this Act to develop recommenda-*
 18 *tions to expand the application of ecosystem principles in*
 19 *fishery conservation and management activities.*

20 “(b) *PANEL MEMBERSHIP.—The advisory panel shall*
 21 *consist of not more than 20 individuals and include—*

22 “(1) *individuals with expertise in the structures,*
 23 *functions, and physical and biological characteristics*
 24 *of ecosystems; and*

1 “(2) *representatives from the Councils, States,*
 2 *fishing industry, conservation organizations, or others*
 3 *with expertise in the management of marine re-*
 4 *sources.*

5 “(c) *RECOMMENDATIONS.—Prior to selecting advisory*
 6 *panel members, the Secretary shall, with respect to panel*
 7 *members described in subsection (b)(1), solicit recommenda-*
 8 *tions from the National Academy of Sciences.*

9 “(d) *ECOSYSTEM REPORT.—Within two years of the*
 10 *date of enactment of this Act, the Secretary shall submit*
 11 *to the Congress a completed report of the fisheries ecosystem*
 12 *management advisory panel, which shall include—*

13 “(1) *an analysis of the extent to which ecosystem*
 14 *principles are being applied in fishery conservation*
 15 *and management activities, including research activi-*
 16 *ties;*

17 “(2) *proposed actions by the Secretary and by*
 18 *the Congress that should be undertaken to expand the*
 19 *application of ecosystem principles in fishery con-*
 20 *servation and management; and*

21 “(3) *such other information as may be appro-*
 22 *priate.*

23 “(e) *PROCEDURAL MATTER.—The procedural matters*
 24 *under section 302(j) with respect to advisory panels shall*

1 *apply to the Fisheries Ecosystem Management advisory*
 2 *panel”.*

3 (b) *GULF OF MEXICO RED SNAPPER RESEARCH.*—
 4 *Title IV of the Act (16 U.S.C. 1882) is amended by adding*
 5 *the following new section.*

6 **“SEC. 407. GULF OF MEXICO RED SNAPPER RESEARCH.**

7 “(a) *THE SECRETARY OF COMMERCE SHALL ENSURE*
 8 *THAT—*

9 “(1) *no later than one year after the effective*
 10 *date of the Sustainable Fisheries Act, an independent*
 11 *peer review is completed of whether—*

12 “(A) *the fishery statistics of the Secretary*
 13 *concerning the red snapper fishery in the Gulf of*
 14 *Mexico accurately and completely account for all*
 15 *commercial and recreational harvests and fishing*
 16 *effort on the stock;*

17 “(B) *the scientific methods, data and mod-*
 18 *els used by the Secretary to assess the status and*
 19 *trends of the Gulf of Mexico red snapper stock*
 20 *are appropriate under this Act;*

21 “(C) *the scientific information upon which*
 22 *the fishery management plan for red snapper in*
 23 *the Gulf of Mexico is based is appropriate under*
 24 *this Act;*

1 “(D) the management measures in the fish-
2 ery management plan for red snapper in the
3 Gulf of Mexico are appropriate for conserving
4 and managing the red snapper fishery under this
5 Act; and

6 “(E) the benefits and costs of establishing
7 an individual fishing quota program for the red
8 snapper fishery in the Gulf of Mexico and rea-
9 sonable alternatives thereto have been properly
10 evaluated under this Act; and

11 “(2) commercial and recreational fishermen in
12 the red snapper fishery in the Gulf of Mexico are pro-
13 vided an opportunity to—

14 “(A) participate in the peer review under
15 paragraph (1); and

16 “(B) provide information to the Secretary
17 of Commerce in connection with the review of
18 fishery statistics under paragraph (a)(1) without
19 being subject to penalty under this Act or other
20 applicable law for any past violation of a re-
21 quirement to report such information to the Sec-
22 retary of Commerce.

23 “(b) The Secretary of Commerce shall submit a de-
24 tailed written report on the findings of the peer review con-
25 ducted under subsection (a)(1) to the Gulf of Mexico Fishery

1 *Management Council no later than one year after the effec-*
 2 *tive date of the Sustainable Fisheries Act.”.*

3 **SEC. 208. STUDY OF CONTRIBUTION OF BYCATCH TO CHAR-**
 4 **ITABLE ORGANIZATIONS.**

5 *(a) STUDY.—The Secretary of Commerce shall conduct*
 6 *a study of the contribution of bycatch to charitable organi-*
 7 *zations by commercial fishermen. The study shall include*
 8 *determination of—*

9 *(1) the amount of bycatch that is contributed*
 10 *each year to charitable organizations by commercial*
 11 *fishermen;*

12 *(2) the economic benefits to commercial fisher-*
 13 *men from those contributions; and*

14 *(3) the impact on fisheries of the availability of*
 15 *those benefits.*

16 *(b) REPORT.—Not later than 1 year after the date of*
 17 *the enactment of this Act, the Secretary of Commerce shall*
 18 *submit to the Congress a report containing determinations*
 19 *made in the study under subsection (a).*

20 *(c) BYCATCH DEFINED.—In this section the term*
 21 *“bycatch” has the meaning given that term in section 3(2)*
 22 *of the Magnuson Fishery Conservation and Management*
 23 *Act, as amended by section 103 of this Act.*

1 **SEC. 209. STUDY OF IDENTIFICATION METHODS FOR HAR-**
 2 **VEST STOCKS.**

3 (a) *IN GENERAL.*—The Secretary of Commerce shall
 4 conduct a study to determine the best possible method of
 5 identifying various Atlantic and Pacific salmon and
 6 steelhead stocks in the ocean at time of harvest. The study
 7 shall include an assessment of—

8 (1) *coded wire tags;*

9 (2) *fin clipping; and*

10 (3) *other identification methods.*

11 (b) *REPORT.*—The Secretary shall report the results of
 12 the study, together with any recommendations for legisla-
 13 tion deemed necessary based on the study, within 6 months
 14 after the date of enactment of this Act to the Committee
 15 on Resources of the House of Representatives and the Com-
 16 mittee on Commerce, Science, and Transportation of the
 17 Senate.

18 **SEC. 210. CLERICAL AMENDMENTS.**

19 *The table of contents is amended by striking the matter*
 20 *relating to title IV and inserting the following:*

“Sec. 315. Fishing Capacity Reduction Programs.

“Sec. 316. Transition to sustainable fisheries.

“TITLE IV—FISHERY MONITORING AND RESEARCH

“Sec. 401. Registration and data management.

“Sec. 402. Data collection.

“Sec. 403. Observers.

“Sec. 404. Fisheries research.

“Sec. 405. Incidental harvest research.

“Sec. 406. Fisheries ecosystem management research.

“Sec. 407. Gulf of Mexico red snapper research.

TITLE III—FISHERIES FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as the “Fisheries Financing Act”.

SEC. 302. FISHERIES FINANCING AND CAPACITY REDUC- TION.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), is amended by adding at the end the following new sections:

“SEC. 1111. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary may, under such terms and conditions as the Secretary shall prescribe by regulation, guarantee and make commitments to guarantee the principal of, and interest on, obligations which aid in refinancing, in a manner consistent with the reduced cash flows available to obligors because of reduced harvesting allocations during implementation of a fishery recovery effort, existing obligations relating to fishing vessels or fishery facilities. Guarantees under this section shall be subject to all other provisions of this title not inconsistent with the provisions of this section. The provisions of this section shall, notwithstanding any other provisions of this title, apply to guarantees under this section.

1 “(b) *Obligations eligible to be refinanced under this*
2 *section shall include all obligations which financed or refi-*
3 *nanced any expenditures associated with the ownership or*
4 *operation of fishing vessels or fishery facilities, including*
5 *but not limited to expenditures for reconstructing, recondi-*
6 *tioning, purchasing, equipping, maintaining, repairing,*
7 *supplying, or any other aspect whatsoever of operating fish-*
8 *ing vessels or fishery facilities, excluding only such obliga-*
9 *tions—*

10 “(1) *which were not in existence prior to the*
11 *time the Secretary approved a fishery rebuilding ef-*
12 *fort eligible for guarantees under this section and*
13 *whose purpose, in whole or in part, involved expendi-*
14 *tures which resulted in increased vessel harvesting ca-*
15 *capacity; and*

16 “(2) *as may be owed by an obligor either to any*
17 *stockholder, partner, guarantor, or other principal of*
18 *such obligor or to any unrelated party if the purpose*
19 *of such obligation had been to pay an obligor’s pre-*
20 *existing obligation to such stockholder, partner, guar-*
21 *antor, or other principal of such obligor.*

22 “(c) *The Secretary may refinance up to 100 percent*
23 *of the principal of, and interest on, such obligations, but,*
24 *in no event, shall the Secretary refinance an amount exceed-*
25 *ing 75 percent of the unencumbered (after deducting the*

1 *amount to be refinanced by guaranteed obligations under*
 2 *this section) market value, as determined by an independent*
 3 *marine surveyor or other competent person for a fishery fa-*
 4 *cility, of the fishing vessel or fishery facility to which such*
 5 *obligations relate plus 75 percent of the unencumbered (in-*
 6 *cluding but not limited to homestead exemptions) market*
 7 *value, as determined by an independent marine surveyor,*
 8 *of all other supplementary collateral. The Secretary shall*
 9 *do so regardless of—*

10 “(1) *any fishing vessel or fishery facility’s actual*
 11 *cost or depreciated actual cost; and*

12 “(2) *any limitations elsewhere in this title on the*
 13 *amount of obligations to be guaranteed or such*
 14 *amount’s relationship to actual cost or depreciated*
 15 *actual cost.*

16 “(d) *Obligations guaranteed under this section shall*
 17 *have such maturity dates and other provisions as are con-*
 18 *sistent with the intent and purpose of this section (includ-*
 19 *ing but not limited to provisions for obligors to pay only*
 20 *the interest accruing on the principal of such obligations*
 21 *during the period in which fisheries stocks are recovering,*
 22 *with the principal and interest accruing thereon being fully*
 23 *amortized between the date stock recovery is projected to be*
 24 *completed and the maturity date of such obligations).*

1 “(e) No provision of section 1104A(d) of this title shall
2 apply to obligations guaranteed under this section.

3 “(f) The Secretary shall neither make commitments to
4 guarantee nor guarantee obligations under this section un-
5 less—

6 “(1) the Secretary has first approved the fishery
7 rebuilding effort for the fishery in which vessels eligi-
8 ble for the guarantee of obligations under this section
9 are participants and has determined that such guar-
10 antees will have no adverse impacts on other fisheries
11 in the region;

12 “(2) the Secretary has considered such factors
13 as—

14 “(A) the projected degree and duration of
15 reduced fisheries allocations;

16 “(B) the projected reduction in fishing ves-
17 sel and fishery facility cash flows;

18 “(C) the projected severity of the impact on
19 fishing vessels and fishery facilities;

20 “(D) the projected effect of the fishery re-
21 building effort;

22 “(E) the provisions of any related fishery
23 management plan under the Magnuson Fishery
24 Conservation and Management Act (16 U.S.C.
25 1801 et seq.); and

1 “(F) the need for and advisability of guar-
2 antees under this section;

3 “(3) the Secretary finds that the obligation to be
4 guaranteed will, considering the projected effect of the
5 fishery recovery effort involved and all other aspects
6 of the obligor, project, property, collateral, and any
7 other aspects whatsoever of the obligation involved,
8 constitute, in the Secretary’s opinion, a reasonable
9 prospect of full repayment; and

10 “(4) the obligors agree to provide such security
11 and meet such other terms and conditions as the Sec-
12 retary may, pursuant to regulations prescribed under
13 this section, require to protect the interest of the Unit-
14 ed States and carry out the purpose of this section.

15 “(g) All obligations guaranteed under this section shall
16 be accounted for separately, in a subaccount of the Federal
17 Ship Financing Fund to be known as the Fishery Recovery
18 Refinancing Account, from all other obligations guaranteed
19 under the other provisions of this title and the assets and
20 liabilities of the Federal Ship Financing Fund and the
21 Fishery Recovery Refinancing Account shall be segregated
22 accordingly.

23 “(h) For the purposes of this section, the term ‘fishery
24 rebuilding effort’ means a fishery management plan,
25 amendment, or regulations required under section 304(e) of

1 *the Magnuson Fishery Conservation and Management Act*
2 *to rebuild a fishery which the Secretary has determined to*
3 *be a commercial fishery failure under section 316 of such*
4 *Act.*

5 “SEC. 1112. (a) *The Secretary is authorized to guaran-*
6 *tee the repayment of debt obligations issued by entities*
7 *under this section. Debt obligations to be guaranteed may*
8 *be issued by any entity that has been approved by the Sec-*
9 *retary and has agreed with the Secretary to such conditions*
10 *as the Secretary deems necessary for this section to achieve*
11 *the objective of the program and to protect the interest of*
12 *the United States.*

13 “(b) *Any debt obligation guaranteed under this section*
14 *shall—*

15 “(1) *be treated in the same manner and to the*
16 *same extent as other obligations guaranteed under*
17 *this title, except with respect to provisions of this title*
18 *that by their nature cannot be applied to obligations*
19 *guaranteed under this section;*

20 “(2) *have the fishing fees established under the*
21 *program paid into a separate subaccount of the fish-*
22 *ing capacity reduction fund established under this*
23 *section;*

1 “(3) not exceed \$100,000,000 in an unpaid prin-
2 cipal amount outstanding at any one time for a pro-
3 gram;

4 “(4) have such maturity (not to exceed 20 years),
5 take such form, and contain such conditions as the
6 Secretary determines necessary for the program to
7 which they relate;

8 “(5) have as the exclusive source of repayment
9 (subject to the proviso in subsection (c)(2)) and as the
10 exclusive payment security, the fishing fees established
11 under the program; and

12 “(6) at the discretion of the Secretary be issued
13 in the public market or sold to the Federal Financing
14 Bank.

15 “(c)(1) There is established in the Treasury of the
16 United States a separate account which shall be known as
17 the fishing capacity reduction fund (referred to in this sec-
18 tion as the ‘fund’). Within the fund, at least one subaccount
19 shall be established for each program into which shall be
20 paid all fishing fees established under the program and
21 other amounts authorized for the program.

22 “(2) Amounts in the fund shall be available, without
23 appropriation or fiscal year limitation, to the Secretary to
24 pay the cost of the program, including payments to finan-
25 cial institutions to pay debt obligations incurred by entities

1 *under this section, Provided that funds available for this*
 2 *purpose from other amounts available for the program may*
 3 *also be used to pay such debt obligations.*

4 “(3) *Sums in the fund that are not currently needed*
 5 *for the purpose of this section shall be kept on deposit or*
 6 *invested in obligations of the United States.*

7 “(d) *The Secretary is authorized and directed to issue*
 8 *such regulations as the Secretary deems necessary to carry*
 9 *out this section.*

10 “(e) *For the purposes of this section, the term ‘pro-*
 11 *gram’ means a fishing capacity reduction program estab-*
 12 *lished under section 315 of the Magnuson Fishery Conserva-*
 13 *tion and Management Act.’”.*

14 **SEC. 303. FISHERIES LOAN GUARANTEE REFORM.**

15 (a) *AMENDMENT OF MERCHANT MARINE ACT, 1936.—*
 16 *Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C.*
 17 *App. 1274) is amended—*

18 (1) *in paragraph (a)—*

19 (A) *by striking “or” and the end of para-*
 20 *graph (5);*

21 (B) *by striking the period at the end of*
 22 *paragraph (6) and inserting “; or”;*

23 (C) *by inserting the following new para-*
 24 *graph:*

1 “(7) *financing or refinancing, including, but not*
 2 *limited to, the reimbursement of obligors for expendi-*
 3 *tures previously made for, the purchase of individual*
 4 *fishing quotas in accordance with section 303(d)(4) of*
 5 *the Magnuson Fishery Conservation and Management*
 6 *Act (16 U.S.C. 1853(d)(4)).”*; and

7 (D) *in the last sentence, by striking “para-*
 8 *graph (6)” and inserting “paragraphs (6) and*
 9 *(7)”*; and

10 (2) *in paragraph (b)(2)—*

11 (A) *by striking “equal to” in the third pro-*
 12 *viso and inserting “not to exceed”*; and

13 (B) *by striking “except that no debt may be*
 14 *placed under this proviso through the Federal*
 15 *Financing Bank:” in the third proviso and in-*
 16 *serting “and obligations related to fishing vessels*
 17 *and fishery facilities under this title shall be*
 18 *placed through the Federal Financing Bank un-*
 19 *less placement through the Federal Financing*
 20 *Bank is not reasonably available or placement*
 21 *elsewhere is available at a lower annual yield*
 22 *than placement through the Federal Financing*
 23 *Bank:”*.

24 (b) *LIMIT ON GUARANTEES.—Fishing Vessel Obliga-*
 25 *tion loan guarantees may not exceed \$40,000,000 annually*

1 *for the purposes of section 504(b) of the Federal Credit Re-*
 2 *form Act of 1990 (2 U.S.C. 661c(b)).*

3 (c) *ADJUSTMENT OF FEES.—The Secretary of Com-*
 4 *merce may take such actions as necessary to adjust fees im-*
 5 *posed on new loan guarantee applicants to capture any sav-*
 6 *ings from placement of loan guarantee obligations through*
 7 *the Federal Financing Bank if the total fees charged to ap-*
 8 *plicants do not exceed the percentage amounts paid before*
 9 *the date of enactment of this Act.*

10 (d) *ADMINISTRATIVE COSTS.—(1) Fees generated from*
 11 *the adjustment in subsection (c) shall be deposited in the*
 12 *appropriate account of the Federal Ship Financing Fund.*
 13 *The Secretary of Commerce may transfer annually up to*
 14 *\$1,700,000 from such account to pay for the administrative*
 15 *costs associated with the Fisheries Obligation Guarantee*
 16 *Program if that program has resulted in job cost, as defined*
 17 *in section 502(5) of the Federal Credit Reform Act (2*
 18 *U.S.C. 661a(5)).*

19 (2) *Fees allocated to an individual fishing quota obli-*
 20 *gation guarantee program pursuant to section 303(d)(4)(A)*
 21 *(16 U.S.C. 1853(d)(4)(A)) shall be placed in a separate ac-*
 22 *count for each such program in the Federal Ship Financing*
 23 *Fund for the purpose of providing budget authority for each*
 24 *such program. Amounts in any such accounts shall be iden-*

1 *tified in future fiscal year budget submissions of the Execu-*
 2 *tive Branch.*

3 (e) *PROHIBITION.—Until October 1, 2001, no new*
 4 *loans may be guaranteed by the Federal Government for*
 5 *the construction of new fishing vessels if the construction*
 6 *will result in an increased harvesting capacity within the*
 7 *United States exclusive economic zone.*

8 ***TITLE IV—MARINE FISHERY***
 9 ***STATUTE REAUTHORIZATIONS***

10 ***SEC. 401. MARINE FISH PROGRAM AUTHORIZATION OF AP-***
 11 ***PROPRIATIONS.***

12 (a) *FISHERIES INFORMATION COLLECTION AND ANAL-*
 13 *YSIS.—There are authorized to be appropriated to the Sec-*
 14 *retary of Commerce, to enable the National Oceanic and*
 15 *Atmospheric Administration to carry out fisheries informa-*
 16 *tion and analysis activities under the Fish and Wildlife Act*
 17 *of 1956 (16 U.S.C. 742a et seq.) and any other law involv-*
 18 *ing those activities, \$49,340,000 for fiscal year 1996,*
 19 *\$50,820,000 for fiscal year 1997, and \$52,345,000 for each*
 20 *of the fiscal years 1998, 1999, and 2000. Such activities*
 21 *may include, but are not limited to, the collection, analysis*
 22 *and dissemination of scientific data necessary for the man-*
 23 *agement of living marine resources and associated marine*
 24 *habitat.*

1 (b) *FISHERIES CONSERVATION AND MANAGEMENT OP-*
2 *ERATIONS.*—*There are authorized to be appropriated to the*
3 *Secretary of Commerce, to enable the National Oceanic and*
4 *Atmospheric Administration to carry out activities relating*
5 *to fisheries conservation and management operations under*
6 *the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.)*
7 *and any other law involving those activities, \$28,183,000*
8 *for fiscal year 1996, \$29,028,000 for fiscal year 1997,*
9 *\$29,899,000 for each of the fiscal years 1998, 1999, and*
10 *2000. Such activities may include, but are not limited to,*
11 *development, implementation, and enforcement of conserva-*
12 *tion and management measures to achieve continued opti-*
13 *mum use of living marine resources, hatchery operations,*
14 *habitat conservation, and protected species management.*

15 (c) *FISHERIES STATE AND INDUSTRY COOPERATIVE*
16 *PROGRAMS.*—*There are authorized to be appropriated to*
17 *the Secretary of Commerce, to enable the National Oceanic*
18 *and Atmospheric Administration to carry out State and in-*
19 *dustry cooperative programs under the Fish and Wildlife*
20 *Act of 1956 (16 U.S.C. 742a et seq.) and any other law*
21 *involving those activities, \$22,405,000 for fiscal year 1996,*
22 *\$23,077,000 for fiscal year 1997, and \$23,769,000 for each*
23 *of the fiscal years 1998, 1999, and 2000. These activities*
24 *include, but are not limited to ensuring the quality and*

1 *safety of seafood products and providing grants to States*
 2 *for improving the management of interstate fisheries.*

3 (d) *AUTHORIZATION OF APPROPRIATIONS FOR CHESA-*
 4 *PEAKE BAY OFFICE.*—*Section 2(e) of the National Oceanic*
 5 *and Atmospheric Administration Marine Fisheries Pro-*
 6 *gram Authorization Act (Public Law 98–210; 97 Stat.*
 7 *1409) is amended—*

8 (1) *by striking “1992 and 1993” and inserting*
 9 *“1996 and 1997”;*

10 (2) *by striking “establish” and inserting “oper-*
 11 *ate”;*

12 (3) *by striking “306” and inserting “307”; and*

13 (4) *by striking “1991” and inserting “1992”.*

14 (e) *RELATION TO OTHER LAWS.*—*Authorizations*
 15 *under this section shall be in addition to monies authorized*
 16 *under the Magnuson Fishery Conservation and Manage-*
 17 *ment Act of 1976 (16 U.S.C. 1801 et seq.), the Marine Mam-*
 18 *mal Protection Act of 1972 (16 U.S.C. 1361 et seq.), the*
 19 *Endangered Species Act of 1973 (16 U.S.C. 3301 et seq.),*
 20 *the Anadromous Fish Conservation Act (16 U.S.C. 757 et*
 21 *seq.), and the Interjurisdictional Fisheries Act (16 U.S.C.*
 22 *4107 et seq.).*

1 **SEC. 402. INTERJURISDICTIONAL FISHERIES ACT AMEND-**
 2 **MENTS.**

3 (a) *REAUTHORIZATION.*—Section 308 of the Interjuris-
 4 dictional Fisheries Act of 1986 (16 U.S.C. 4107) is amend-
 5 ed—

6 (1) by amending subsection (a) to read as fol-
 7 lows:

8 “(a) *GENERAL APPROPRIATIONS.*—There are author-
 9 ized to be appropriated to the Department of Commerce for
 10 apportionment to carry out the purposes of this title—

11 “(1) \$3,400,000 for fiscal year 1996;

12 “(2) \$3,900,000 for fiscal year 1997;

13 “(3) \$4,400,000 for each of the fiscal years 1998,
 14 1999, and 2000.”;

15 (2) by striking “1994 and 1995,” in subsection
 16 (b) and inserting “1994, 1995, 1996, 1997, 1998,
 17 1999, and 2000”; and

18 (3) by striking “\$350,000 for each of the fiscal
 19 years 1989, 1990, 1991, 1992, and 1993, and
 20 \$600,000 for each of the fiscal years 1994 and 1995,”
 21 in subsection (c) and inserting “\$650,000 for fiscal
 22 year 1996, \$700,000 for fiscal year 1997, \$750,000 for
 23 each of the fiscal years 1998, 1999, and 2000,”.

24 (b) *AMENDMENT TO IMPLEMENT THE NORTHEAST,*
 25 *NORTHWEST, AND GULF OF MEXICO DISASTER RELIEF*

1 *PROGRAMS.—Section 308(d) of the Interjurisdictional Fish-*
 2 *eries Act of 1986 (16 U.S.C. 4107(d)) is amended—*

3 *(1) by striking “award grants to persons engaged*
 4 *in commercial fisheries, for uninsured losses deter-*
 5 *mined by the Secretary to have been suffered” in*
 6 *paragraph (1) and inserting “assist persons engaged*
 7 *in commercial fisheries, either directly through assist-*
 8 *ance to persons or indirectly through assistance to*
 9 *State and local government agencies and non-profit*
 10 *organizations, for projects or other measures designed*
 11 *to alleviate impacts determined by the Secretary to*
 12 *have been incurred”;*

13 *(2) by striking “a grant” in paragraph (3) and*
 14 *inserting “assistance”;*

15 *(3) by inserting “, if provided directly to a per-*
 16 *son,” in paragraph (3) after “subsection”;*

17 *(4) by striking out “gross revenues annually,” in*
 18 *paragraph (3) and inserting “net annual revenue*
 19 *from commercial fisheries,”;*

20 *(5) by striking paragraph (4) and inserting the*
 21 *following:*

22 *“(4) Assistance may not be provided under this*
 23 *subsection as part of a fishing capacity reduction*
 24 *program in a fishery unless the Secretary determines*
 25 *that—*

1 “(A) adequate conservation and manage-
2 ment measures are in place in that fishery; and

3 “(B) adequate measures are in place to pre-
4 vent the replacement of fishing capacity elimi-
5 nated by the program in that fishery.”; and

6 (6) by striking “awarding” and all that follows
7 in paragraph (5) and inserting “assistance provided
8 under this subsection.”.

9 **SEC. 403. ANADROMOUS FISHERIES AMENDMENTS.**

10 Section 4(a)(2) of the Anadromous Fish Conservation
11 Act (16 U.S.C. 757d(a)(2)) is amended by striking “and
12 1995.” and inserting “1995, 1996, 1997, 1998, 1999, and
13 2000.”.

14 **SEC. 404. ATLANTIC COASTAL FISHERIES COOPERATIVE**
15 **MANAGEMENT ACT AMENDMENTS.**

16 (a) *DEFINITION.*—Paragraph (1) of section 803 of the
17 Atlantic Coastal Fisheries Cooperative Management Act (16
18 U.S.C. 5102) is amended—

19 (1) by inserting “and” after the semicolon in
20 subparagraph (A);

21 (2) by striking “States; and” in subparagraph
22 (B) and inserting “States.”; and

23 (3) by striking subparagraph (C).

24 (b) *IMPLEMENTATION STANDARD FOR FEDERAL REG-*
25 *ULATION.*—Subparagraph (A) of section 804(b)(1) of such

1 *Act (16 U.S.C. 5103(b)(1)) is amended by striking “nec-*
 2 *essary to support” and inserting “compatible with”.*

3 (c) *AUTHORIZATION OF APPROPRIATIONS.—Section*
 4 *809 of such Act (16 U.S.C. 5108) is amended—*

5 (1) *by striking “and” after “1995,”; and*

6 (2) *striking “1996.” and inserting “1996, and*
 7 *\$7,000,000 for each of the fiscal years 1997, 1998,*
 8 *1999, and 2000.”.*

9 **SEC. 405. TECHNICAL AMENDMENTS TO MARITIME BOUND-**
 10 **ARY AGREEMENT.**

11 (a) *EXECUTION OF PRIOR AMENDMENTS TO DEFINI-*
 12 *TIONS.—Notwithstanding section 308 of the Act entitled*
 13 *“An Act to provide for the designation of the Flower Garden*
 14 *Banks National Marine Sanctuary”, approved March 9,*
 15 *1992 (Public Law 102–251; 106 Stat. 66) hereinafter re-*
 16 *ferred to as the “FGB Act”, section 301(b) of that Act (add-*
 17 *ing a definition of the term “special areas”) shall take effect*
 18 *on the date of enactment of this Act.*

19 (b) *CONFORMING AMENDMENTS.—*

20 (1) *Section 301(h)(2)(A) of the FGB Act is re-*
 21 *pealed.*

22 (2) *Section 304 of the FGB Act is repealed.*

23 (3) *Section 3(15) of the Marine Mammal Protec-*
 24 *tion Act of 1972 (16 U.S.C. 1362(15)) is amended to*
 25 *read as follows:*

1 “(15) *The term ‘waters under the jurisdiction of*
2 *the United States’ means—*

3 “(A) *the territorial sea of the United States;*

4 “(B) *the waters included within a zone,*
5 *contiguous to the territorial sea of the United*
6 *States, of which the inner boundary is a line co-*
7 *terminous with the seaward boundary of each*
8 *coastal State, and the other boundary is a line*
9 *drawn in such a manner that each point on it*
10 *is 200 nautical miles from the baseline from*
11 *which the territorial sea is measured; and*

12 “(C) *the areas referred to as eastern special*
13 *areas in Article 3(1) of the Agreement between*
14 *the United States of America and the Union of*
15 *Soviet Socialist Republics on the Maritime*
16 *Boundary, signed June 1, 1990; in particular,*
17 *those areas east of the maritime boundary, as de-*
18 *finied in that Agreement, that lie within 200*
19 *nautical miles of the baselines from which the*
20 *breadth of the territorial sea of Russia is meas-*
21 *ured but beyond 200 nautical miles of the base-*
22 *lines from which the breadth of the territorial sea*
23 *of the United States is measured, except that this*
24 *subparagraph shall not apply before the date on*
25 *which the Agreement between the United States*

1 *and the Union of Soviet Socialist Republics on*
2 *the Maritime Boundary, signed June 1, 1990,*
3 *enters into force for the United States.”.*